Department of Veterans Affairs

Office of Construction and Facilities Management (003C2)
Washington, DC 20001
202-632-4632
www.cfm.va.gov

NEPA Interim Guidance for Projects

PG-18-17 (rev.)

30 September 2010

Executive Summary

This document presents the requirements of how the National Environmental Policy Act (NEPA) relates to VA facility operation and construction projects and is presented for use as functional interim guidance during this period of significant construction / renovation activity while the Implementing Regulations are being re-written.

The following provides a "Cliff Notes" preview of NEPA as it applies to projects for the VA.

Background NEPA is a long standing (originally 1970's) requirement for environmental review of federal "actions."

The definition of the word "Action" is pretty broad and includes substantially more than construction, such as: lease, sale, or purchase of land; providing funding; or providing permits for private actions.

Under NEPA federal agencies are required to "determine if their proposed actions have significant environmental effects and to consider the environmental and related social and economic effects of their proposed actions." Note that NEPA is a decision making process, integral to the Action, rather than a separate environmental requirement.

The Process The NEPA process is "done" at the completion of one of three levels of evaluation (see attached flow path diagram):

1. Categorical Exclusion (CATEX)
2. Environmental Assessment (EA) with a Finding of No Significant Impact (FONSI)
3. Environmental Impact Statement (EIS) with a Record of Decision (ROD)

CATEX - is a category of Actions that the agency has determined do not individually or cumulatively have a significant effect on the quality of the human environment. If the action does not clearly meet any of these criteria, or seemingly does but has "extraordinary circumstances," then it must be evaluated through completion of an EA.
Example CATEXs are routine actions such as: facility or grounds maintenance; minor renovation or replacement in kind; administrative actions. The list of CATEX actions are agency specific and are specified in their implementing regulations.

At the facility level numerically, most of the Actions generally fall into this CATEX category.

EA - takes a broad look at the potential impacts of the Action on the environment which includes both natural and historical resources, as well as human impacts such as socio-economic, visual, and noise. The NEPA process also requires an EA to clearly state the purpose and need for the proposed Action as well as review all reasonable alternatives, including no action. If there are no significant impacts (i.e. any potential issues are routinely handled through issuance of permits, consultations, modifications to design, or other agreements) a FONSI can then be issued following a public comment period concluding the NEPA process. If there are substantial issues and/or public controversy, the process continues on through completion of an EIS.

At an individual facility, based upon their size and scale, an EA is most commonly the appropriate level of NEPA evaluation for Major, a number of NRMs, significant energy, and some Minor projects.

EIS - is a more extensive process with additional public involvement and specific requirements such as publication of Notice of Intent and a formal Scoping process. The EIS process also requires involvement of Environmental Protection Agency (USEPA), publications in the Federal Register, and several mandated timelines for public comment, review, and wait periods. At the conclusion of the process, the ROD, reviewed by USEPA, is a legally binding document.

The number of projects at a facility which would require an EIS level of effort is quite small. Siting of a new full-sized medical center, however, would likely require an EIS based upon potential for impacts.

This NEPA Interim Guidance - Projects provides VA personnel with the tools with which to achieve compliance with the law, as well as likely more comprehensive project development and execution.

In addition to this VA document, there are many other reference documents. For example, the Council on Environmental Quality (CEQ), which sets the overall NEPA policy requirements, has published a 55-page booklet "A Citizen's Guide to the NEPA" which can be found at: http://ceq.hss.doe.gov/nepa/Citizens_Guide_Dec07.pdf

Acknowledgements

VA NEPA Implementing Regulations Steering Committee

Thomas W. Moran, P.E. Environmental Engineer, CFM - Chairman

Jack Staudt, P.E. Environmental Engineer, VHA 10N

Jody McClarin, Environmental Engineer, CEOSH

Cathleen Johnson, Program Specialist, OAEM

George Setlock, VISN 19 and VISN 21 Environmental Program Manager

Frank Duncan, Environmental Engineer, NCA

Michelle DeGrandi, Esq., OGC Environmental

Lisa Mahoney, Esq., Environmental Engineer, The Clark Group LLC

Reviewers

Wendy Kady, VISN 6 IH/GEMS Coordinator

Nelson Cancio, Environmental Engineer, CFM Western Regional Office

Anne-Marie Naficy, VISN 20 Capital Assets Manager

Dave Hill, Facilities Manager, Canandiagua VA Medical Center

Dan Therrien, Project Manager, CFM Central Regional Office

Pam Russell, GEMS / Industrial Hygiene Manager, Minneapolis VA Health Care System

Kathleen Schamel, VA Historic Preservation Officer

Robert Yager, Chief Engineering, Omaha - VA Nebraska-Western Iowa Health Care System

Department of Veterans Affairs
NEPA Interim Guidance - Projects

Table of Contents

I. Executive Summary

II. Acknowledgements

III. Section 1
- A. Introduction
- B. Background: Overview of the National Environmental Policy Act (NEPA)
- C. The Process: Understanding the Value of NEPA
  - Chart: Decision Process and NEPA Process
- D. The NEPA Process
- E. Department of Veterans Affairs NEPA Regulations
- F. NEPA for Veteran Affairs Planning and Projects
  - Chart: VA Project / NEPA Process (small projects)
  - Chart: VA Project / NEPA Process (large projects)

IV. Section 2 – The Environmental Planning and Review Process
- A. Overview
- B. Purpose
- C. When
- D. Who
- E. Scoping
- F. Categorical Exclusion (CATEX)
  - VA CATEX List
  - Extraordinary Circumstances
  - Simple CATEX
  - Advanced CATEX
- G. Environmental Assessment (EA)
  - i. Draft EA
  - ii. Public Involvement
  - iii. Determination (FONSI or EIS)

H. Environmental Impact Statement (EIS)
    i. Notice of Intent and Scoping
    ii. Public Involvement / Draft EIS
    iii. Final EIS
    iv. Record of Decision (ROD)
I. Supplemental EA or EIS
J. Programmatic EA or EIS
K. Involving Third Parties
    i. Cooperating Agencies
    ii. Public Participation
L. Coordination with NHPA
M. Compliance Permitting / Due Diligence

V. Section 3 – Reference
    A. Regulatory Context/Legal Requirements
    B. Terminology
    C. VA Contacts

VI. Section 4 – Appendix
    A. Example CATEX
    B. Sample EA Table of Contents
    C. Sample EA Scope of Work
    D. Example Finding of No Significant Impact (FONSI)
    E. Draft Notice of Availability for an Environmental Assessment

Department of Veterans Affairs
Interim NEPA Guidance Projects – Section One

Introduction

The purpose of this Department of Veterans Affairs Interim NEPA Guidance (Interim Guidance) is to explain the requirements for environmental planning and how the process integrates with project planning and agency decision-making. It is important for project managers and decision-makers to have a clear understanding of the requirements for evaluating environmental information while engaging in agency activities. By integrating environmental analysis into the project planning and decision-making process, project managers and decision-makers can make more informed decisions and better avoid unforeseen circumstances.

This Interim Guidance will assist VA officials, employees, and contractors to plan and implement projects in compliance with the federal laws and regulations designed to protect the environment. The Interim Guidance contains a brief description of the National Environmental Policy Act (NEPA), explains how VA can use the NEPA process to improve decisions and comply with environmental laws, and provides guidance on the types of environmental analysis and documentation necessary for VA projects. This guide is primarily focused on VA facility and construction projects, but NEPA applies to all VA actions (defined as: any decision, policy, project, plan, program, etc. subject to Department of Veterans Affairs control and responsibility which has the potential for an environmental impact).

Efforts are currently in process to re-write the VA's NEPA Implementing Regulations (38 CFR Part 26), which will be a combination of codified regulations and VA Directive and/or Handbook. The timeline for full completion of this regulatory process is quite lengthy. VA is currently undergoing an unprecedented recapitalization of existing facilities nation-wide, as well as construction of brand new medical centers, cemeteries, and office support type facilities. The intent of this document is to provide Interim Guidance to decision makers and project managers for integration of project and environmental planning to minimize environmental impacts and ensure NEPA compliance. This Interim Guidance does not attempt to cover NEPA evaluation of all possible VA Actions, rather focuses nearly solely the most pressing set of Actions, namely construction / renovation projects.

Background: Overview of the National Environmental Policy Act (NEPA)

NEPA requires federal agencies to consider the impacts of their actions on the human environment. It is a long-standing law, originally enacted in 1969, signed into law in 1970. NEPA is triggered when a federal agency proposes to engage in any action that may have environmental effects. Agency "actions" subject to NEPA encompass a diverse range of activities, such as: construction; lease, sale or purchase of property; grants or permitting; programs or policies that are under the Agency's control and have the potential for environmental impact(s). Agencies must comply with NEPA at all stages of a federal action, from planning to implementation. NEPA does not replace

other environmental laws and regulations. Instead, NEPA serves as a decision-making approach to identify and assess potential environmental impacts as early in the decision-making process as possible. NEPA seeks to educate agency decision-makers on the environmental, socio-economic, and cultural effects of federal actions. Compliance with NEPA provides additional information that can be used alongside project feasibility studies and economic analyses to help project managers and agency staff make good decisions.

NEPA requires federal agencies to comply with NEPA regulations promulgated by the Council on Environmental Quality (CEQ). The CEQ oversees the NEPA process and ensures federal agencies comply with the Act. CEQ NEPA regulations guide agencies through the NEPA process by establishing minimum requirements for NEPA review. These minimum requirements include the need for public involvement and an assessment of reasonable alternatives.

All federal Agencies must create their own specific NEPA procedures, in consultation with the CEQ, to guide agency practitioners, decision-makers and the public. An agency's NEPA procedures adapt the NEPA process to the particular agency's needs and scope of activities. The agency and all of its employees must follow the agency's NEPA procedures, CEQ NEPA regulations, and other relevant regulations.

UNDERSTANDING THE VALUE OF NEPA

NEPA integrates with the planning and design process for any project. Through the NEPA process, project planners and decision-makers avoid unnecessary delays in project development and make informed decisions among alternatives based on environmental information.

In order for an agency to comply with NEPA, decision-makers must review environmental documents at the same time as other planning documents. An agency-wide approach to the NEPA process improves the ability of all program offices to respond to environmental information and proceed with project development in compliance with environmental laws and regulations while avoiding unnecessary delays.

NEPA is a tool for decision-making. The NEPA process is a part of the project decision process as illustrated in the diagram. NEPA is good project management because it allows the best decision to be made relative to potential impacts to the human environment while avoiding unforeseen circumstances and avoiding unnecessary delay.

The NEPA Process

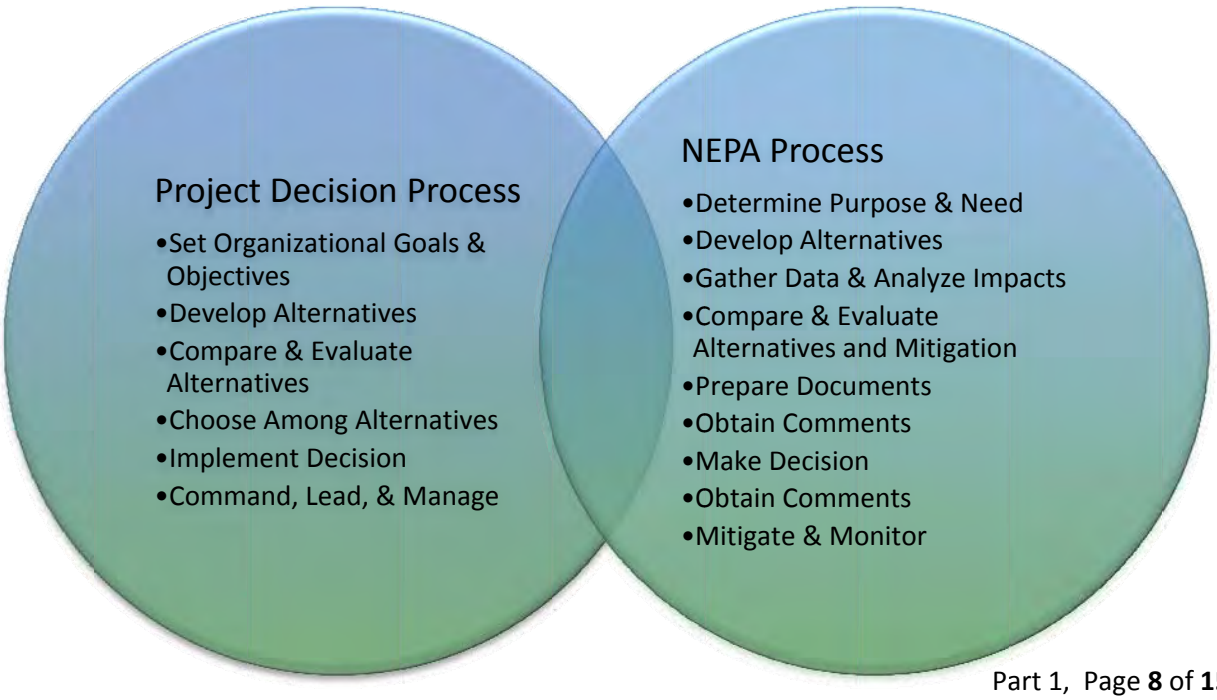
The purpose of NEPA is to ensure that information regarding potential environmental impacts of any federal, or federally funded, action is available to public officials and citizens before decisions are made and before actions are taken. NEPA should be started as early in the process as possible.

In the NEPA context, "environment" includes natural and historical resources, as well as human impacts such as socio-economic, visual, and noise.

The first step in the NEPA process is to identify the **purpose and need** for the project and define the **proposed action**. The next step is to begin preliminary **scoping** of potential environmental impacts and potential alternatives to the proposed action.

Compliance with NEPA for a given project or decision is achieved in one of three ways:

1. by identifying the project or decision as a **categorical exclusion (CATEX)** and making sure there are no extraordinary circumstances requiring special consideration
2. by conducting an **environmental assessment (EA)** resulting in a **finding of no significant impact (FONSI)** (if appropriate) on the project or decision
3. by preparing an **environmental impact statement (EIS)**, considering the findings of this statement in deciding whether and how to proceed with the project or decision, and **issuing a record of decision (ROD)**



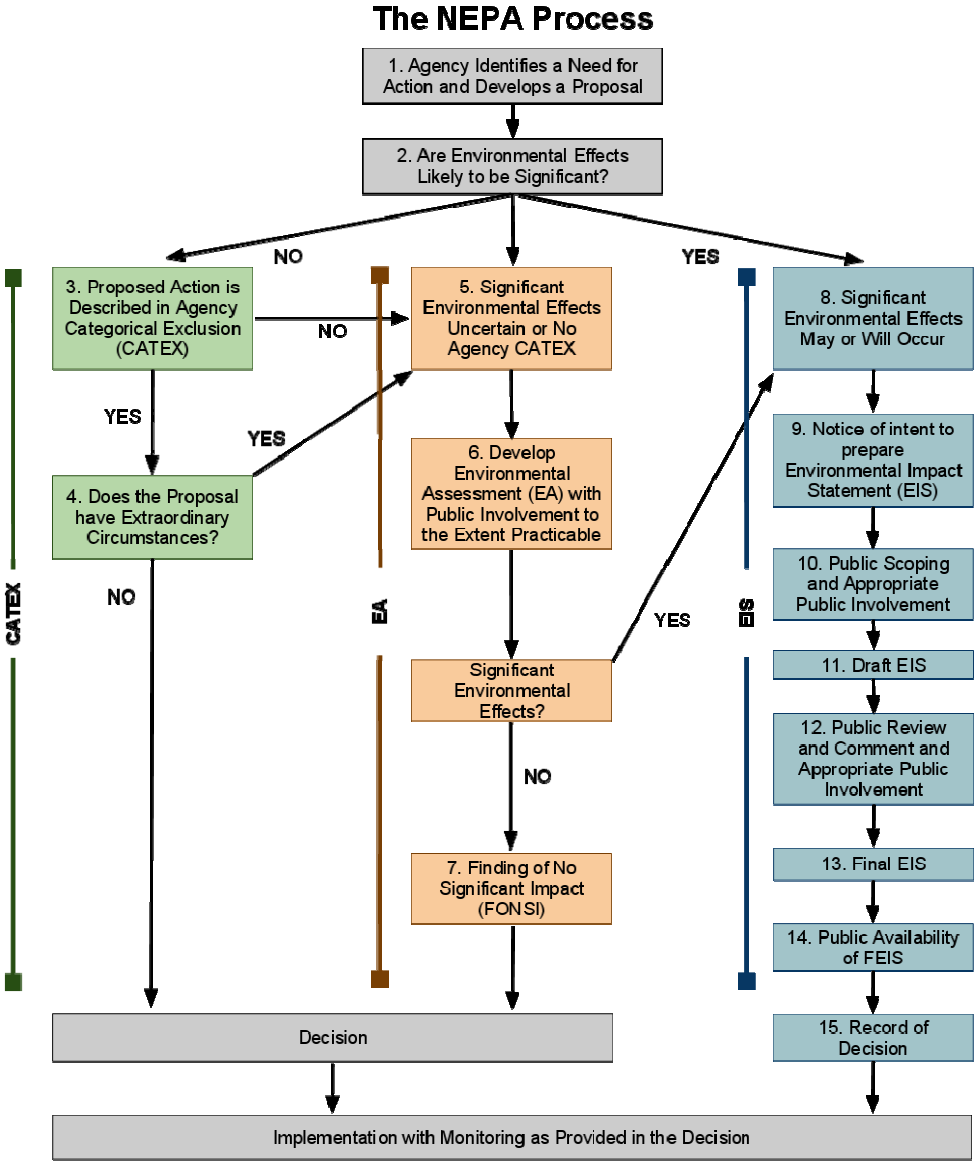
Categorical Exclusions (CATEXs) are actions that a federal agency has determined to be very unlikely to individually or cumulatively have a significant impact on the environment. If a federal agency knows a particular type of action will not generate a significant environmental impact, based on agency experience, then the agency may elect to categorically exclude the action from further environmental review. Agencies generate agency-specific lists of categorical exclusions based on experience and these lists are formalized through the regulatory process. VA's current CATEX list can be found in 38 CFR Part 26. If the action does not clearly meet the agency-specific criteria, or seemingly does but has "extraordinary circumstances," then the action must be evaluated through completion of an EA.

An **Environmental Assessment (EA)** looks at the effects of a proposed action and reasonable alternatives to achieve the agency's objectives. The EA is intended to be a concise document that (1) briefly provides sufficient evidence and analysis for determining the significance of the action and whether to prepare an EIS; (2) aids an agency's compliance with NEPA when no environmental impact statement is necessary; and (3) facilitates preparation of an Environmental Impact Statement when one is necessary. If the analysis finds there are no significant impacts, a **Finding of No Significant Impact (FONSI)** can be issued concluding the NEPA process. The FONSI is a legally binding document. If there are substantial issues and/or public controversy, the NEPA process continues on through issuance of a Notice of Intent (NOI) completion of an EIS.

An **Environmental Impact Statement (EIS)** is a more extensive process with additional public involvement and specific requirements such as formal publication of notices and a scoping process. The EIS process also requires involvement of the Environmental Protection Agency (USEPA), publications in the Federal Register, and several mandated timelines for public review and comment periods. At the conclusion of the process, a Record of Decision (ROD) is issued and this is a legally binding document.

Whether VA prepares a CATEX, EA, or EIS, each of these processes should involve some form of **public involvement**. This could mean posting a CATEX on a website, inviting the public to comment on an EA, conducting a public meeting, or publishing a Notice of Availability for an EIS in the Federal Register. NEPA may also require formal **agency consultation** if the project or its impacts overlap the jurisdiction of another federal agency. The NEPA process including public involvement and coordination is covered in more detail in **Section 2**.

A summary of the whole process is illustrated in the "NEPA Process Diagram" below.



Department of Veterans Affairs NEPA Implementing Regulations

VA's NEPA implementing regulations are codified in the Federal Register at 38 CFR Part 26. Last updated in 1989, the current regulations no longer meet the needs of the Agency. VA is currently developing new agency NEPA regulations and Directive/Handbook to reflect the Agency's current operations, organization, and mission. The new regulations will enable VA to better address current environmental challenges of their actions and provide adaptability for the future.

The new regulations and Directive/Handbook will provide clarity on roles and responsibilities for environmental planning within VA and explain how environmental planning relates to VA programs, plans, and projects. The regulations will also explain the relationship between VA and local, state, regional, and tribal agencies in the environmental planning process. Similar actions will be analyzed the same way under NEPA across all VA program offices. VA will gain efficiency and efficacy from an agency-wide NEPA approach that emphasizes a programmatic analysis of environmental planning and analysis.

Specifically, the new VA NEPA regulations will update the current list of VA CATEXs. The CATEXs as written in the current regulations are too broad, requiring too much interpretation to use properly. The new regulations will present a CATEX list tailored to VA projects.

The new regulations are expected to be promulgated in 2011. In the meantime, while as a federal agency, VA remains responsible for complying with NEPA analysis and documentation requirements on all actions, this NEPA Interim Guidance - Projects is intended to provide direction to VA employees on environmental planning and NEPA for projects as they currently represent the largest, and most pressing, set of NEPA actions across the Agency.

NEPA for VA Planning and Projects

VA officials, employees, and contractors must comply with NEPA for federal actions undertaken by the Agency. For example, NEPA is required when VA acquires land for hospitals, cemeteries, and other installations or when VA proposes to do a Minor project at one of its facilities. NEPA must be started early in the planning process - before acquiring federal lands, accepting donations, or contracting for the purchase of lands or before finalizing the design for an Minor project. NEPA promotes good project management and avoids unforeseen circumstances from cropping up during implementation of a federal action.

Decision-makers need to identify likely environmental issues as early as possible for planning and project development purposes. Note that internal VA planning efforts are part of the NEPA process, such as VHA alternatives analyses. Most VA projects occur at existing facilities, each with their own set of environmental considerations. Common types of VA projects that may be subject to NEPA include: design and construction; contract bids; energy projects; leasing for office space; site selection; facility operations and maintenance; and construction and renovation.

In order to properly complete a NEPA evaluation, Project Managers will need access to facility-specific data. VA projects may require early evaluation of historical structures, archaeological sites, asbestos, lead-based paint, and wetlands surveys; environmental site assessments with corresponding facility records for waste disposal; and the review of existing permits with the potential to restrict new construction.

NEPA sometimes requires decision-makers to consider a facility's non-environmental permits and approvals, such as state highway approval for a new entrance ramp, which may affect the direct or cumulative impacts of a project. Although the NEPA process is inclusive, other individual environmental laws, regulations, and permits as applicable by federal, state, and local agencies must be followed. NEPA evaluation should also be coordinated with, but is not a replacement for, compliance with the National Historic Preservation Act (NHPA). Examples of other environmental permits that must continue to be followed include: storm water discharge; underground storage tanks; soil and erosion control for construction; air emissions; and wetlands disturbance. Other environmental requirements include consultation with the State Historic Preservation Officer (SHPO), "environmental due diligence" efforts conducted in the course of acquiring a new property,

asbestos removal plans, and spill prevention plans. These environmental requirements are discussed in **Section Two** of the Interim Guidance.

VA has environmental personnel who are knowledgeable about the types of environmental issues that are often associated with different types of projects. This institutional knowledge will allow a project team to develop a list of evaluations, surveys, or other data required to identify and assess potential environmental impacts. Environmental support services for completion of the NEPA analysis may be contracted out to non-agency providers or may be done in-house where expertise and time schedule allow. Multiple providers may provide specialty services to analyze different potential environmental issues associated with a project in order to complete the NEPA process.

Project planning and NEPA evaluation are part of the same process, in fact they should cross-feed each other in order to develop a project which meets the needs of VA while minimizing negative impacts to the environment. The diagrams on the following pages illustrate the project and NEPA process for a typical VA O&M project and a typical construction project.

NEPA / VA Project Process Integration
O&M and other small projects

POC/Coordination	Project Process	NEPA Process
Field/Medical Center - Facility Engineer - Project Manager Internal VA Stakeholders *For example:* *- Planning* *- Safety* *- GEMS* *- Security* *- Environmental Services* *- CAMS*	Identify Need Identify Project Preliminary/Schematic Design & Cost Estimate Secure Funding Project Design Finalize Design Construction/Implementation	**<= Identify purpose & need** **<= Identify proposed action** **<= Initiate NEPA – Scoping** Determine CATEX or EA Identify / Evaluate Impacts **<= Complete Draft NEPA Document (CATEX or EA)** **<= Public Comment Period** **<= Finalize NEPA document** **<= Issue Decision Document (CATEX, FONSI)** Compliance Permitting

NEPA / VA Project Process Integration
Large Construction projects

POC / Coordination	Project Process	NEPA Process
Field/Medical Center - Facility Engineer - Project Manager Internal Stakeholders -*GEMS* - *Planning* - *Safety* - *Security* - *Environmental Services* - *CAMS* External Stakeholders -*Neighbors* - *Community Leaders* - *Regulatory Agencies* - *Historical Groups* - *Tribal* Project Manager A/E	Identify Need Identify Project SCIP - Action Plan Approval -Business Case Review - Budget Estimate Project Approval A/E selection and Award Conceptual Design Schematic Design (SDs) Design Development (DDs)	**<= Identify purpose & need** **<= Identify proposed action** **<= Initiate NEPA - Scoping** - Identify environmental/historic baseline information needs - Identify key stakeholders - Develop alternatives Conduct required baseline environmental / historic studies Evaluate alternatives
VISN, MSN, VHA, NCA, VBA or Congress	Budget Approval	**<= Completion of Draft NEPA Document** **<= Public Comment Period**
VA Oversight A/E / Engineer/ Construction Contractor Contractor	Design-Bid-Build (or IDC) / Design-Build Construction Documents (CDs) / Complete Design Bid/Award Initiate Construction Construction / Implementation	**<= Final NEPA document** **<= Issue Decision Document (CATEX, FONSI, ROD)** Point of "Irretrievable Commitment" **<= Compliance Permitting** Compliance Oversight

Large Projects certainly include all Majors and may include significant NRMs, Minors, or Energy Projects.

Conclusion and Document Overview

Done well, NEPA compliance enables better decision-making and project management. This Interim Guidance is intended to help VA decision makers, employees, and contractors to plan and implement projects in compliance with the federal laws and regulations designed to protect the environment in a way that enhances the project planning process.

This part, **Section One**, provided a brief description of the National Environmental Policy Act (NEPA), how VA can use the NEPA process to improve decisions and comply with environmental laws, and provides guidance on the types of environmental analysis necessary for VA projects.

Section Two contains specific guidance and forms to guide VA practitioners and decision-makers through the environmental planning and review process including scoping and feasibility, Categorical Exclusions, Environmental Assessments, Environmental Impact Statements, public involvement, and agency coordination.

Section Three is the reference section which includes legal and regulatory context, terminology, and VA contacts.

Section Four is an appendix with examples of complete NEPA analyses, table of contents, statements of work (SOW), and notice of availability (NOA).

VA NEPA INTERIM GUIDANCE - PROJECTS **PART TWO:** ENVIRONMENTAL PLANNING FOR PROJECT MANAGERS

Overview of Part Two

This section is organized around the NEPA evaluation process for projects. In the next few pages, you will find a discussion of NEPA and how it relates to your project. This section includes information about when to begin the NEPA process and who is responsible for accomplishing NEPA within VA.

The majority of this section focuses on the steps required to complete the NEPA process. This section will explain how to conduct a categorical exclusion review (CATEX), environmental assessment (EA), or environmental impact statement (EIS). Samples of categorical exclusions are included as reference materials.

You also will find information on how to involve third parties in the NEPA process. There are opportunities to include interested individuals, organizations, and agencies in the NEPA process. Third parties can assist you in the completion of your NEPA review.

This section concludes with a reminder that you will need to consider other environmental permitting requirements. Reference information about other relevant legal requirements is provided in the next section.

What is the purpose of NEPA for VA projects?

The purpose of the NEPA process is to identify any potentially significant impacts on the environment as a result of proposed VA actions, and integrate consideration of those environmental impacts along with economic, technical and other considerations into VA decision-making. The environment, as defined by NEPA, includes natural resources as well as impacts on socio-economic, historic or cultural resources, and low-income or minority populations.

Early Project Planning Activities

Good project management is a process of evaluating potential issues and finding solutions. Environmental, historic and cultural requirements are all aspects of good project planning no different than budget, scope or space planning and need to be taken into account in decision-making. These processes take time, sometimes months, and should be started early and integrated into the overall project planning and development process. Done correctly, NEPA can help the project manager and decision-maker anticipate and avoid delays by identifying alternatives and solutions upfront.

VA project managers can use the NEPA process to gather and analyze environmental information. VA projects may occur in sensitive environmental areas or adversely impact segments of the population. Environmental permits may be required for VA projects as well. Through NEPA, VA project managers integrate environmental planning requirements early in the project to avoid unnecessary delays and make better decisions. The NEPA process gives project managers the ability to choose alternatives that uphold the VA mission while acting as a responsible steward of the environment.

Deciding When to Begin the NEPA Process

NEPA requires that you begin early in the process of any planning activity. Early planning includes activities such as initiation of a feasibility study, development of master plans, and development of project budgets or funding requests. An early start will give you the widest range of options and minimize delays.

Rule of Thumb: Initiate NEPA review when you have a general idea about what needs to be done, but when you still have plenty of time to consider alternative ways of doing it.

Initiation of NEPA review should be coordinated with the beginning of review under the Section 106 of the National Historic Preservation Act (NHPA).

Remember: No demolition, construction or earthmoving can begin (which clearly demonstrate a final decision regarding an action) before NEPA analysis and decisions are completed. Other example project related prohibitions prior to completion of the NEPA analysis include purchasing property or awarding of construction contracts.

Who at VA is responsible for NEPA?

Every VA employee and contractor engaged in project planning and implementation (e.g., Project Manager, Capital Asset Manager, Facility Engineer) is responsible for making sure that actions they plan or propose are reviewed for their impacts on the environment. Not just NEPA, but over a dozen federal laws and executive orders, and many more regulations, are directly relevant to managing impacts on various kinds of natural resources. Section Three outlines these legal authorities.

Resources for completing NEPA may be found either in-house or contracted through a consultant. In-house resources include GEMS, CFM, VISN, NCA, VACO, and CEOSH staff. Additional information on VA contacts for environmental and cultural-historic planning can be found in Section Three. A sample Statement of Work (SOW) for contracting NEPA services can be found in Section Four.

Scoping is part of the feasibility process – the beginning of the NEPA and project planning process. These processes allow the project manager to identify issues early in the project and avoid last minute problems. The NEPA process and feasibility process are basically the same – first you evaluate the issues, and then you find solutions.

Starting the NEPA Process: Purpose and Need, Proposed Action and Preliminary Scoping

The NEPA process starts by defining the **purpose and need** and the **proposed action,** and conducting preliminary **scoping**. Once you have finished this evaluation, then you are ready to determine the level of NEPA review that is needed.

The purpose and need statement defines the problem that VA is trying to fix. For example, the purpose and need statement for a new VA hospital could be the need to provide medical services to a growing population or the need to replace aging infrastructure. A good purpose and need statement should answer the question why. For example, why is VA proposing to construct a new hospital?

The project is known in NEPA terms as the **proposed action.** It should be well defined at the start of the process, but flexible enough so that changes to the project, such as project design, location or duration, could be made based on environmental considerations. The proposed action should answer the question what: What is VA proposing to do to address the problem or purpose and need?

CEQ notes that agencies should identify environmental effects and values in adequate detail so they can be compared to economic and technical analyses. Environmental documents and appropriate analyses should be circulated and reviewed at the same time as other planning documents.[1]

Once you have defined the proposed action, you must begin an early and open process for determining the scope of issues to be addressed and for identifying the significant issues related to a proposed action. This is known as **preliminary scoping**. Scoping is the process of identifying any potential issues with the project or implementation; specifically, any environmental, historic or cultural resources or concerns with the project or the site. Preliminary scoping is key to finding any areas of potential concern or conflict so that you can then determine whether the project needs further NEPA review. If you proceed with an EA or EIS, then you will need to conduct more formal scoping, including public involvement and coordination with other agencies or interested parties (described in more detail later). In conducting preliminary scoping, review relevant files on the project or site, including any previously identified requirements for projects in the area. For example, the site may have historic resources, be located in an environmentally sensitive area, or have particular for concerns such as hazardous waste. You will also want to talk to any potentially interested parties, such as regulatory agencies or even local

[1] CEQ NEPA Regulations, 40 C.F.R. § 1501.2.

residents that may have concerns. Once you have gathered this information, you are ready to determine the appropriate level of analysis.

The level of NEPA analysis depends on the potential significance of the project's environmental impacts. *Significance* as used in NEPA requires considerations of both context and intensity. Context means that the significance of an action must be analyzed in several contexts such as society as a whole (human, national), the affected region, the affected interests, and the locality. Intensity refers to the severity of the impact, the cumulative impacts and the degree of controversy surrounding the proposed action. Significance varies with the setting of the proposed action. Both short- and long-term effects are relevant.

COMMON MISCONCEPTIONS

- **VA can use CATEX lists from any agency - Not true.** VA must rely on the list that is currently in the VA NEPA regulations at 38 CFR Part 26.*
- **A CATEX is an exemption from NEPA - Not true.** A CATEX is simply the lowest level of NEPA analysis.
- **A Phase I Environmental Site Assessment satisfies NEPA - Not true.** A Phase I ESA is an evaluation of potential for contamination driven by CERCLA liability concerns ("dirty dirt") rather than an evaluation of an action under NEPA (i.e. a project).

* currently under revision

Compliance with NEPA on a given project or action is achieved by evaluating the environmental impacts of the action in one of three levels of analyses and conclusion:

1. By identifying the project or decision as ***categorically excluded (CATEX)*** and making sure there are no **extraordinary circumstances** requiring special consideration.
2. By conducting an ***environmental assessment (EA)*** on the **proposed action** and **alternatives** resulting in a **finding of no significant impact (FONSI)** on the project or decision.
3. By preparing an ***environmental impact statement (EIS)*** on the **proposed action** and **alternatives**, considering the findings of this statement in deciding whether and how to proceed with the project or decision, and issuing a **record of decision (ROD)**.

FOR NEPA PROCESS QUESTIONS, SEE POINTS OF CONTACT IN SECTION 3.

Categorical Exclusions (CATEX)

Actions that are very unlikely to individually or cumulatively have a significant impact on the environment may be considered for a Categorical Exclusion. In this section, you will find:

- Steps to determine if a VA CATEX applies
- List of Categorical Exclusions
- List of Extraordinary Circumstances
- A simple CATEX form
- An advanced CATEX form

Follow these steps to determine if an action qualifies for a categorical exclusion:

Step 1: Review the proposed action and understand why it is needed. Determine whether any **connected**, **cumulative**, or similar actions are part of the proposed action. In other words, ensure the whole project is defined for evaluation and carefully consider whether it is a piece of a larger action that should be analyzed further.

Step 2: Review VA's Categorical Exclusion (CATEX) List found in Chart 1 and determine if the proposed action is listed. In the vast majority of cases, the actions listed in Chart 1 have no potential for environmental impact. However, additional factors (Extraordinary Factors) must still be considered before concluding an action can be Categorically Excluded based upon listing in Chart 1. [Please note that the CATEX List in Chart 1 will be significantly revised in the upcoming VA regulations.]

- If the action **is not** on the CATEX list, then an EA or an EIS level of analysis is required.
- If the action **is** on the CATEX list, move to step 3.

Step 3: Review the Extraordinary Circumstances List found in Chart 2 to determine if it is appropriate to use a CATEX for this proposed action. [Please note that the Extraordinary Circumstances list in Chart 2 will likewise be significantly revised in the upcoming VA regulations.]

- If any of the extraordinary circumstances apply, the action cannot be categorically excluded, and an EA or EIS is required.
- If no extraordinary circumstances apply to the action, continue to step 4.

Step 4: If the proposed action requires more than simple permits or approvals under other federal or state laws, in particular the National Historic Preservation Act or the Endangered Species Act, the impacts may be regarded as "extraordinary circumstances" and trigger further NEPA review of an otherwise categorically excluded action. For example, significant impacts on historic properties may be regarded as extraordinary circumstances. In addition to external granted permits (UST permit for example), one must also evaluate if the proposed action requires revisions to facility specific plans such as EMS or SPCC plan.

Even if a CATEX is appropriate, note that actions that are categorically excluded from NEPA review are not categorically excluded from review under the National Historic Preservation Act (NHPA) and other federal and state laws.

Step 5: If there is no potential for measurable impact, and all other determinations are met, complete the categorical exclusion documentation. The categorical exclusion form requires a brief description of the proposed action, notes of any conditions not to be exceeded, permits or other plans required, identification of the category used in excluding the action from further NEPA analysis, and a signature block. *Note that you must demonstrate the reason for the CATEX in your documentation.*

This guidance includes two CATEX forms – one simple, and one advanced. The simple CATEX form is for facility-level projects that are typical of operations and maintenance type actions. The advanced CATEX form is for more involved projects that require more careful consideration of project impacts before a CATEX determination can be applied.

Step 6: Whenever possible, inform the public about the Categorical Exclusion. For example, include a notice of the CATEX on your website. CEQ recommends engaging the public (such as by notification and disclosure) before using a CATEX.[2] VA is moving towards publication of all CATEX notices on the internet, whether on an individual facility website or the VA NEPA website.

Step 7: Continue with application process(es) for any required environmental or other permitting. More details are found in Section 3.

Chart 1 - VA Categorical Exclusions List *

1. Repair, replacement, and new installation of primary or secondary electrical distribution systems;
2. Repair, replacement, and new installation of components such as windows, doors, roofs; and site elements such as sidewalks, patios, fences, retaining walls, curbs, water distribution lines, and sewer lines which involve work totally within VA property boundaries;
3. Routine VA grounds and facility maintenance activities;
4. Procurement activities for goods and services for routing facility operations maintenance and support;
5. Interior construction or renovation;
6. New construction of 75,000 gross square feet or less;
7. Development of 20 acres of land or less within an existing cemetery, or development on acquired land of five acres or less;
8. Actions which involve support or ancillary appurtenances for normal operation;
9. Leases, licenses, permits, and easements;
10. Reduction in force resulting from workload adjustments, reduced personnel or funding levels, skill imbalances or other similar causes;
11. VA policies, actions and studies which do not significantly affect the quality of the human environment;
12. Preparation of regulations, directives, manuals or other guidance that implement, but do not substantially change, the regulations, directives, manuals, or other guidance of higher organizational levels or another Federal agency; and
13. Actions, activities, or programs that do not require expenditure of Federal funds.

* 38 CFR Part 26.6(b)(1)

[2] CEQ. (2010, February 18). *Establishing and Applying Categorical Exclusions Under the National Environmental Policy Act*. Retrieved June 2010, from http://ceq.hss.doe.gov/nepa/regs/Categorical_Exclusion_Draft_NEPA_Guidance_FINAL_02182010.pdf

Chart 2 - Extraordinary Circumstances **

1. Greater scope or size than normally experienced for a particular categorical exclusion
2. Actions in highly populated or congested areas
3. Potential for degradation, although slight, or existing poor environmental conditions
4. Use of unproven technology
5. Potential presence of an endangered species, archaeological remains, or other protected resources
6. Potential presence of hazardous or toxic substances

* 38 CFR Part 26.6(b)(1)

Examples of VA's Extraordinary Circumstances

The following examples are illustrative of Extraordinary Circumstances where an action would typically require further NEPA evaluation (an EA or EIS). These are not intended to be comprehensive, but they will help you to identify extraordinary circumstances when they exist.

(i) Greater scope or size than normally experienced for a particular categorical exclusion

For example CATEX (i) lists repair, replacement and new installation of electrical distribution systems. This was intended for routine examples of this type of work. If one is bringing a new power line from a major utility sub-station several miles away, across multiple properties (each of which requires an easement) to provide a medical center with a second feed, this CATEX would not apply since it is markedly "greater in scope or size than normally experienced."

(ii) Actions in highly populated or congested areas

The exact same project being considered for a cemetery in a rural, open setting will be considered quite differently than for a cemetery in an urban setting that has neighbors and/or highways tight to the property lines that overlook the entire facility.

(iii) Potential for degradation, although slight, or existing poor environmental conditions

For example, the facility may be adjacent to a recognized wetland area which has been stressed by a variety of factors and require more than simple measures to be employed in order not to encumber additional development.

(iv) Use of unproven technology

Examples of when this extraordinary circumstance may come into play would be projects using technologies that are not commercially available and in common use elsewhere.

(v) Potential presence of an endangered species, archeological remains, or other protected resources

Certainly one cannot determine that a CATEX is appropriate if one doesn't understand whether items such as these are present. A CATEX may be applicable following appropriate records research and/or site investigations conclude the presence of these potentially significant items is negligible.

(vi) Potential presence of hazardous or toxic substances

Similar to extraordinary circumstance (v) above, if it is known, or highly likely, there are hazardous or toxic substances which need to be remediated, removed, or otherwise dealt with in order to accomplish the proposed action, one cannot simply determine a CATEX is appropriate.

Example Simple CATEX Form

Project:	**Location:**	**Date:**
	Project Num.	

Type of Project:	**Project Description:**
❑ Operation and Maintenance Activities ❑ Repairs/ Renovation Project ❑ New Construction Project ❑ Lease ❑ Other	
Level of NEPA Analysis:	**Other Environmental Permits/Analysis Needed:**
❑ Categorical Exclusion ❑ Environmental Assessment Needed ❑ Environmental Impact Statement Needed	❑ ❑ ❑

DETERMINATION

❑ I find the proposed project qualifies as a CATEGORICAL EXCLUSION with no extraordinary circumstances. Specify which CATEX: _____

❑ I find that the proposed project MAY have a significant effect on the environment; therefore, an ENVIRONMENTAL ASSESSMENT will be prepared.

❑ EIS

Recommended by: _____ **Project Mgt** **Date:** _____

Approved by: _____ **GEMS** **Date:** _____

Example Advanced CATEX form

Project:	**Location:**	**Date:**
	Project Num.	

Type of Project:	**Project Description:**
❑ Operation and Maintenance Activities ❑ Repairs/ Renovation Project ❑ New Construction Project ❑ Lease ❑ Other	
Level of NEPA Analysis: ❑ Categorical Exclusion ❑ Environmental Assessment Needed ❑ Environmental Impact Statement Needed	**Other Environmental Permits/Analysis Needed:** ❑ ❑ ❑

PROJECT IMPACTS

Would the proposed activity involve or generate any of the following?

SOURCE	YES	NO	SOURCE	YES	NO	SOURCE	YES	NO
Air Emissions including GHGs			Liquid Effluent			RCRA or CERCLA Sites		
Asbestos			Petroleum Storage			Wetlands		
Excess Noise			Solid Waste			Permit Modification		
Utility Modification			Hazardous Waste			Chemical Use/Storage		
Soil Disturbance			Biological Resources			Aesthetics		
Water Treatment			Radioactive Waste			Water/Well Use		
Water Flow Modification			Mixed Waste			Other:		

DETERMINATION

❑ I find the proposed project qualifies as a CATEGORICAL EXCLUSION with no extraordinary circumstances. Specify which CATEX: _____

❑ I find that the proposed project MAY have a significant effect on the environment; therefore, an ENVIRONMENTAL ASSESSMENT will be prepared.

❑ EIS

Recommended by: _____ **Project Mgr** **Date:** _____

Approved by: _____ **GEMS** **Date:** _____

Environmental Assessments

The purpose of an EA is to determine the significance of the environmental effects of the proposed action and to look at alternative means to achieve the VA's objectives. The EA is intended to be a concise document that (1) briefly provides sufficient evidence and analysis for determining whether to prepare an EIS; (2) aids an agency's compliance with NEPA when no environmental impact statement is necessary; and (3) facilitates preparation of an Environmental Impact Statement when one is necessary.[3]

COMMON MISCONCEPTION

A Phase I Environmental Site Assessment satisfies NEPA. Not true. Though similarly named a Phase I ESA is not the same thing as an Environmental Assessment under NEPA.

Draft EA

One key aspect of a draft EA is the statement of the purpose and need.[4] The **purpose and need** statement describes what VA is trying to achieve by proposing an action. The purpose and need is not simply the project ("build a new hospital wing"), but the reason for the project ("provide more emergency room capacity"). The purpose and need statement serves as the basis for identifying reasonable **alternatives** that meet the purpose and need. Alternatives must include discussion of a "no action" alternative, which means not doing the proposed action and represents the environmental baseline.

A draft EA should include brief discussions of:

- the purpose and need for the proposed action,
- reasonable alternatives to the proposed action,
- the environmental impacts of the proposed action and alternatives,
- and proposed mitigation or monitoring measures,
- a listing of agencies and persons consulted.[5]

Because the EA serves to evaluate the significance of a proposal for agency actions, it should focus on the context and intensity of effects that may "significantly" affect the quality of the human environment.[6] Often the EA will identify ways in which the agency can revise the action to minimize environmental effects.

Key Concepts

Cumulative impact *is the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such other actions. (CEQ NEPA Regulations 40 C.F.R. § 1508.7)*

Significant *means the context and intensity of a proposed action would have an impact on the environment.*

Public Involvement

Public involvement for an EA may include public engagement during scoping, drafting, and finalizing the EA through publication of notices

[3] CEQ NEPA Regulations, 40 C.F.R. § 1508.9.
[4] CEQ NEPA Regulations, 40 C.F.R. § 1502.13.
[5] CEQ NEPA Regulations, 40 C.F.R. § 1508.9(b).
[6] CEQ NEPA Regulations 40 C.F.R. § 1508.27.

or public meetings. The EA process must include at least a 30-day public comment period on the draft EA, which starts with the publication of a Notice of Availability (NOA). The NOA should include information about the project and its location, how to find the EA (either in-print or electronically), how to submit comments, and an indication of how VA intends to proceed with the NEPA process. There are various outlets for publishing an NOA. Common examples include: local paper Legal section, facility-specific web site, posters in medical center lobby, etc. Facility PAOs may provide other outlets for getting this information out. An example NOA can be found in Section Four. If the agency does not receive any comments or none requiring additional data gathering or analysis, then the comment period is considered complete. Those comments, along with responses, can then be documented in an appendix to the Final EA. The agency may also submit a draft EA or agency letter to potentially interested agencies for comment concurrent with the public comment period. For more information, see the sections following on Involving Other Consulting Parties and involving the Public.

Determination

The EA process concludes with either a Finding of No Significant Impact (FONSI) or a determination of need to prepare an EIS. A FONSI is a document that presents the reasons why the agency has concluded that there are no significant environmental impacts projected to occur upon implementation of the proposed action.[7] For example, a FONSI might be issued if any potential impacts are minimal and are routinely handled through issuance of permits, consultations, modifications to design, or other agreements. The EA is either summarized in the FONSI or attached to it. An example FONSI may be found in Section Four.

In two circumstances, the CEQ regulations require agencies to also make the proposed FONSI available for public review for 30 days. Those situations are:

- if the type of proposed action hasn't been done before by the particular agency, or
- if the action is something that typically would require an EIS under the agency NEPA procedures.[8]

To finalize the process, the FONSI requires the co-signature of the VHA Medical Center Director or MSN Director (NCA) and the Project Sponsor or other technical representative. This is required because NEPA is a decision-making process, and these decision-makers must indicate their involvement and understanding of the outcome of the NEPA process.

Key NEPA EA Process Steps

- baseline info gathering

- evaluation of proposed action & alternatives

- Internal VA draft document for review

- Draft EA

- NOA to public of Draft EA

- 30 day public comment period

- review/respond to substantive comments - include in Final EA

- Internal VA draft FONSI for review

- FONSI

- NOA to public of Final EA / FONSI

[7] Government Printing Office Electronic Information Enhancement Act of 1993, 44 U.S.C. §§ 4101-4104.
[8] 42 U.S.C. § 4332(C).

IF YOU THINK AN EIS IS APPROPRIATE, CONTACT THE CFM NEPA CONTACT. SEE SECTION 3 FOR CONTACT DETAILS.

Environmental Impact Statements (EIS)

A Federal agency must prepare an EIS if it is proposing a major federal action significantly affecting the quality of the human environment.[9] The regulatory requirements for an EIS are more detailed than the requirements for an EA or a categorical exclusion.

Notice of Intent and Scoping

The EIS process begins with publication of a Notice of Intent (NOI), stating VA's intent to prepare an EIS for a particular proposed action. The NOI is published in the Federal Register, and provides some basic information in preparation for the scoping process.[10] The NOI provides a brief description of the proposed action and possible alternatives. It also describes the agency's proposed scoping process, including any meetings and how the public can get involved. The NOI will also contain an agency point of contact who can answer questions about the proposed action and the NEPA process.

Public Involvement

The next required major public involvement step in the EIS process is to submit a draft EIS for public comment. The Environmental Protection Agency (EPA) publishes a Notice of Availability in the Federal Register informing members of the public that the draft is available for comment. Websites, local papers, or other means of public notice may also be used. The formal public comment period begins when the Notice of Availability (NOA) is first published and extends for 45 days.

Note that these are the minimum requirements for public involvement. VA may conduct public meetings or hearings or other information dissemination (newsletters, newspaper articles, web-sites, etc.) at any point in the process as a way to inform and solicit comments. VA will also request comments (as well as initiate permitting or approval activities) from other Federal, State, Tribal, and local agencies that may have jurisdiction or interest in the matter.

Final EIS

When the public comment period is finished, the agency analyzes comments, responds to comments, conducts further analysis as necessary, and prepares the final EIS. In the final EIS, VA must respond to the substantive comments received from other government agencies and members of the public.[11]

Record of Decision (ROD)

The ROD is the final step in the EIS process. The ROD is a document that states what the decision is; identifies the alternatives considered, including the environmentally preferred alternative; and discusses mitigation plans, including any enforcement and monitoring commitments.[12] In the ROD, VA discusses all e factors, including any considerations of national policy, which were contemplated when it reached its decision.

---

[9] CEQ NEPA Regulations, 40 C.F.R. § 1501.7.
[10] Public hearings are run in a formal manner, with a recording or minutes taken of speakers' comments. Public meetings may be held in a variety of formats, and may be much more informal than hearings.
[11] CEQ NEPA Regulations, 40 C.F.R. § 1503.4.
[12] CEQ NEPA Regulations, 40 C.F.R. § 1505.2.

Supplemental Environmental Assessment (SEA) and Supplemental Environmental Impact Statements (SEIS)

NEPA imposes a continuing duty on Federal agencies to evaluate and gather new information relevant to the environmental impacts of their actions. When important new information becomes available after an EA or EIS is prepared, an agency may satisfy its duty under NEPA with a supplemental analysis. Reasons for performing a supplemental analysis include a change in the project, a change to the environment where the Federal action is located, or the NEPA analysis completed for the project is more than five years old and the proposed action has not yet been implemented. For example, the approval of a programmatic EIS may take years to complete. An agency may need to supplement the EIS due to changes in the environment during the time between project proposal and agency approval.

An agency must prepare a supplemental EA or EIS when the agency makes substantial changes in the proposed action that are relevant to environmental concerns or if there are significant new circumstances or information relevant to environmental concerns and bear on the proposed action or its impacts.[13] The supplement focuses on only those actions / elements or potentially affected environment that are different or have changed from what was understood at the time the original EA or EIS was prepared. An agency does not need to analyze what is already covered in the previous analysis.

An agency may supplement a draft or final EA or EIS. An agency must prepare, circulate, and file a supplement in the same manner as a draft and final statement unless CEQ approves alternative procedures.

Public Involvement

The minimum comment period for a supplemental EA is 15 days. A supplemental EIS is filed the same way as a regular EIS. The comment period for a supplemental EIS is 45 days. As with the original analyses, VA may elect to provide information and solicit comments from other agencies and/or the public at various stages of the NEPA process.

Programmatic Environmental Assessment or Environmental Impact Statement

There are cases where a Programmatic NEPA evaluation of a proposed action or series of actions is more appropriate. The most common example is when an action is proposed to occur at a series of facilities.
The Programmatic NEPA document should demonstrate sufficient evaluation of the concept-wide potential issues as well as those common to all the proposed individual actions / facilities.

Upon completion of the NEPA evaluation (EA or EIS), including public comment period and issuance of a FONSI or ROD, one must conduct an evaluation for each individual action to ensure that the conclusion reached at the Programmatic level applies to each individual site. This may be

[13] 40 CFR § 1502.9(c).

done through the use of a checklist or evaluation form (Record of Environmental Conditions - REC) developed for the specifics covering the potential concerns which may arise from construction or operation of that proposed action. If it is determined that all the potential issues were adequately evaluated in the Programmatic evaluation, then the process is complete and this checklist documentation is added to the file to demonstrate same.

If, however, there are site-specific concerns which are determined to be beyond those evaluated in the Programmatic document, one must continue on with a Supplemental NEPA evaluation, but the efforts may be limited to only those not already adequately addressed.

While use of a Programmatic approach to NEPA certainly provides the opportunity to save time and effort for each individual action/facility, it will require additional "up-front" time and effort. Potential difficulties include:

- need to ensure potential concerns for all actions/facilities are adequately addressed
- administrative / practical aspects of public comment period tasks for a (likely) nation-wide audience

Timing for Completion of NEPA Analysis

The NEPA analysis and concluding documentation (signed CATEX, FONSI or ROD) must, by law, be completed prior to contract award for construction.

For large projects such as Majors which follow a traditional Design-Bid-Build process, the initial design phases (planning, SDs, DDs) are generally funded with Advance Planning Funds (APF). The NEPA process must be complete prior to expenditure of project funds, i.e. CDs.

For smaller projects with less complex design process, the NEPA process must be complete prior to construction contract award.

Design-Build projects may present a unique challenge with respect to NEPA process completion vs. project schedule depending upon how much project specific information (i.e. preliminary or schematic designs) is available prior to award of Design-Build contract. There are two cases with respect to adequacy of project specific information prior to award:

1. If there is enough project specific information then no dilemma is presented, and the NEPA analysis is seen through to completion prior to award.

2. If there is not enough project specific information (i.e. the preliminary design efforts by the awarded contractor are required to properly complete the process), then the award can be made as long as the following previsions are made:

> a. The design-build contract must include appropriate provisions preventing the design-builder from proceeding with final design activities and physical construction prior to the completion of the NEPA process

b. The design-build contract must include appropriate provisions ensuring that all environmental and mitigation measures identified in the NEPA document will be implemented

c. The design-builder must not prepare the NEPA document or have any decisionmaking responsibility with respect to the NEPA process

d. Any consultants who prepare the NEPA document must be selected by and subject to the exclusive direction and control of VA

e. The design-builder may be requested to provide information about the project and possible mitigation actions, and its work product may be considered in the NEPA analysis and included in the record

f. The design-build contract must include termination provisions in the event that the no-build alternative is selected

Involving Third Parties

Cooperating Agencies

A cooperating agency is one which, through execution of an agreement (such as a MOU) is requested to be part of the team performing the NEPA analyses of the proposed action. It may be appropriate in cases where there are multiple agencies involved with an action, the information to be evaluated is complex and requires specialized expertise, or there are conflicting policies among the various agencies which require resolution to have an effective, productive evaluation.

A Federal agency with special expertise regarding an environmental issue or jurisdiction by law should be invited to participate as a cooperating agency. Examples of potential cooperating agencies for VA might include US Army Corps of Engineers, Department of Defense, or a particular Tribe with local ties. The lead agency must request participation of the cooperating agency at the earliest possible time. The lead agency can use the environmental analysis and proposals of cooperating agencies with jurisdiction by law or special expertise. If a Federal agency requests to become a cooperating agency with VA, VA must meet with the agency and allow them to participate fully in VA's NEPA process. CEQ Regulations 40 CFR 1501.6 explains these requirements. VA may also request cooperating agency status from other federal agencies if the other agency is preparing a NEPA analysis that affects VA's mission.

Public Participation

NEPA was the first federal statute to require that agencies include the public in federal decision-making and public involvement remains one of the key components of NEPA. Because the public, in all its diversity, has vested interests in the environment and their local communities, it is vital that VA provide every opportunity for the public to participate in its NEPA reviews, including meetings, review of documents, and development of reasonable alternatives. In organizing and carrying out review activities, be sure to:

1. Inform the public of what is planned early in the decision-making process;
2. Provide public notice of NEPA-related hearings, public meetings, and the availability of environmental documents;

3. Solicit from the public any concerns they may have about the project's impacts on the environment and natural resources – including places they value that VA may not know about;
4. Solicit public comments on the draft environmental analysis and respond to public comments in the final environmental analysis when appropriate.

If you are carrying out scoping and/or public participation under NEPA, this should be coordinated with identifying and contacting interested stakeholders. Make sure that NEPA public notices, press releases, and other devices used to elicit public comments or public involvement invite interested parties to participate in consultation. Any group or individual may offer public comment, but typically, interested parties include property owners, local civic groups, non-governmental organizations, and academic institutions.

In whatever media you use to notify the public of the proposed project (newspaper articles, websites, etc.), you should invite people to express their concerns about environmental impacts and become involved in the environmental review. Try to put yourself in the place of a member of the public who is concerned about something he or she thinks is a part of their environment, and think about how you would want the federal government to communicate with *you.* Then try to show the same consideration to whoever may be concerned about your project.

If there are low-income groups or minorities who may be affected by the project, make special efforts to involve them as required by Executive Order 12898 for Environmental Justice. This may involve adjusting meeting schedules, translating documents, having interpreters on hand during meetings, and making other adjustments to overcome cultural, linguistic, and economic barriers to their participation.

Make sure you keep a record of what you do to involve the public.

FOR QUESTIONS ABOUT HISTORIC OR CULTURAL RESOURCES, CONTACT THE VA FEDERAL PRESERVATION OFFICER. SEE SECTION 3 FOR CONTACT DETAILS.

Coordination with NHPA

VA projects and other actions must be consistent with the policies established by Congress in the National Historic Preservation Act (NHPA). Because of the many historic VA resources, it is critical to consider NHPA compliance when evaluating a proposed action. Keep in mind that a building does not need to be listed, rather only eligible, on the National Register of Historic Places (National Register)to be considered historic or to trigger requirements. Remember that in addition to buildings, historic resources can also be things like a monument, a parade ground, an archeological site, or an entire historic district.

NEPA and Section 106 of NHPA are totally separate laws, however due to the nature of VA's facilities, is important to coordinate compliance between the two – both for the sake of efficiency and to ensure VA carries out the requirements of both.

Compliance with Section 106 should be coordinated with review under NEPA, regardless of which level of NEPA review is carried out. Generally, try to coordinate NEPA and Section 106 review as follows:

Why is NHPA an important part of the process:

- VA is responsible for nearly 5,500 buildings across the United States.
  - About 2/3 of these buildings are over 50 years old
  - Nearly ⅓ of these buildings have been evaluated and determined to be eligible as historic structures
- About 75 or ½ of VA major medical facilities include one or more historic districts.

Getting started: Initiate review under both Section 106 and NEPA at the same time, early in planning; that is:

- When you first identify a proposed action.
- When you begin a review of a categorically excluded action for extraordinary circumstances. Impacts on historic properties may be such a circumstance, but even if it is not, Section 106 must be complied with.
- When you begin to determine the scope of an EA.
- When you determine the purpose of and need for a project that will be the subject of an EIS, and start considering the scope of the EIS.

Identify historic properties that may be affected

- During the feasibility study.
- During review of a categorically excluded action for extraordinary circumstances.
- During research, analysis, and preparation of a draft EA.
- During research, analysis, and preparation of a draft EIS.

Assess effects on historic properties

- During review of a categorically excluded action for extraordinary circumstances. Cross-reference Section 106 determinations of “no historic properties subject to effect,” “no adverse effect,” and “adverse effect” and documentation of NEPA extraordinary circumstance review.
- During preparation of a draft EA, and refine during finalization. Consider effects on historic properties and other cultural resources in deciding whether to issue a FONSI or prepare an EIS. Cross-reference EA with Section 106 determinations of “no historic properties subject to effect,” “no adverse effect,” and “adverse effect”. Reflect the terms of any conditional no adverse effect determination in the FONSI if one is issued.
- During preparation of a draft EIS, and refine during finalization.

A more comprehensive method . . . .

Due to the age and/or significance of many VA facilities, it is more efficient to have an overall facility assessment of National Register Eligibility. This would enable one to refer to a list of already SHPO concurred determinations so that you do not have to "start from scratch" for each individual project.

For a facility with complex eligibility which may include historic resources (ex. buildings, monuments, vistas), resources from various time periods (ex: 1920's, Civil War, and Native American), or in combination with Archeological resources, it may be worthwhile to continue on to a Programmatic Agreement (PA) or an Integrated Cultural Resources Management Plan (ICRMP).

Resolve adverse effects on historic properties through further consultation and establishment of memoranda of agreement (MOA) –

- When deciding whether a normally categorically excluded action under NEPA requires more review.
- When finalizing an EA and deciding whether a FONSI is appropriate. Reflect the terms of any MOA in the FONSI, if one is issued.
- Finalize any MOA or conditional no adverse effect determination through consultation during public comment on, and while finalizing, an EIS. Reflect the terms of any MOA in the ROD.

Implement the terms of any conditional no adverse effect determination and/or any MOA once the decision has been made to proceed with the proposed action or an alternative to it.

Compliance Permitting / Due Diligence

"Doing NEPA" does not take the place of compliance with specific environmental or other regulations. Rather, the NEPA process is a broad-brush approach that looks at "everything" for the purpose of decision-making. NEPA is typically referred to as an "umbrella" statute because it requires agencies to discuss all other environmental requirements in one analysis. The NEPA analysis should reference environmental and non-environmental permits or approvals, but it does not take the place of applying for and receiving the necessary permits and authorities. The permitting process may begin during the NEPA process but may also continue afterward into project implementation.

It is important to also note that NEPA evaluation (which looks at the potential impact(s) of a proposed action) is not the same as, but is inter-related to, "environmental due diligence" efforts such as a Phase I Environmental Site Assessment (which looks for existing contamination of a site) conducted in the course of acquiring property.

The majority of projects are conducted at existing facilities, therefore none of these permits or other environmental requirement efforts for a particular project can be conducted in a void. Project Managers need to be able to access the data and resources at their facility to ensure the efforts conducted for a particular project are in concert with existing projects, permits and requirements, remembering that upon issuance most of them will have requirements for the operational life of the facility.

EXAMPLES OF ENVIRONMENTAL AND OTHER COMPLIANCE PERMITS OR PROCESSES

Environmental permits could include: boilers or other air emission sources; underground storage tanks (USTs); stormwater or wastewater discharges; soil & erosion control for construction; wetlands disturbance, or other permits.

These permit processes or issuances are administered by the pertinent federal agency (e.g. Army Corps, Fish & Wildlife); state agency (e.g. DEC, DNR, DEQ, DEQE); or local agency or board (e.g. Water Control Board, Critical Area Commission).

"Non-permit," yet potentially necessary, environmental requirements could include processes such as: coordination with NHPA and consultation with the SHPO; revision of a Spill Prevention, Control and Countermeasure Plan (SPCC); or approval of an asbestos removal plan.

"Non-environmental" permits or approvals could include permits or approvals such as state highway approval for a new entrance or a connection permit from the municipal sewage authority.

VA NEPA INTERIM GUIDANCE
PART THREE: REFERENCES

Compliance with Environmental Requirements

Introduction

VA employees and contractors can use this list of authorities as a reference tool to determine the environmental legal requirements for a project or other activity. This list includes VA's most commonly encountered environmental requirements. Other legal requirements may apply, and VA is responsible for complying with all applicable environmental requirements. This section is organized into three parts, with the most pertinent legal authorities listed first. These are followed by other authorities that may apply to a VA project, and finally by NEPA terms and acronyms. All three lists are presented alphabetically and linked internally. Click on words highlighted in red to reach internal links to track the highlighted topic or section, or click on words highlighted in blue to view outside internet materials.

Part I: Pertinent Legal Authorities

Council on Environmental Quality (CEQ)

The CEQ is a division of the Executive Office of the White House that coordinates Federal environmental policy by working closely with agencies and other Executive offices. The Chair of CEQ acts as the top environmental policy advisor to the President of the United States. Congress established CEQ through the National Environmental Policy Act of 1969 (NEPA) to ensure Federal agencies meet their obligations under the Act.

CEQ manages the NEPA process by issuing guidance documents and CEQ Regulations. Federal agencies consult with CEQ to promulgate their NEPA regulations and to resolve questions regarding the NEPA process.

Executive Orders (EO)

As the head of the Executive Branch, the President of the United States has the sole authority to issue executive orders. Executive orders are documents that allow the President to manage the operations of the Federal government. Executive orders are legally binding and typically direct Federal agencies on the means to implement Federal laws and policies. VA must follow executive orders to the maximum extent practicable.

Executive Order 12898 – Environmental Justice

Enacted in 1994, EO 12898 directs each Federal agency to make environmental justice part of its mission. A Federal agency will identify and address the human health or environmental effects of its actions on minority and low-income populations through this EO. Agencies can determine when they must comply with this order by 1) addressing the question early in the planning process, and 2) answering the following questions:

- Is our project likely to change any aspect of the environment (air, water, land, buildings, natural resources)?

  If the answer is "no," then the project will have no environmental impacts relevant to a low income or minority group or anyone else, and environmental justice is not an issue.

  If the answer is "yes," then ask:

- Do any low-income or minority groups live or work in or near, use, or otherwise value the potentially affected environment? (See Guidelines).

  If the answer to this question is "no," then environmental justice should not be a concern.

  If the answer to this question is "yes," then you should ascertain what groups are likely to be concerned and involve them in project review under NEPA and, as applicable, Section 106 of NHPA and other legal requirements.

Executive Order 13423 - Strengthening Federal Environmental, Energy, and Transportation Management

Signed in 2007, it instructs Federal agencies to conduct their environmental, transportation, and energy-related activities under the law in support of their respective missions in an environmentally, economically and fiscally sound, integrated, continuously improving, efficient, and sustainable manner. The Order sets goals in the following areas:

- energy efficiency
- acquisition
- renewable energy
- toxic chemical reduction
- recycling
- sustainable buildings
- electronics stewardship
- fleets
- water conservation

Executive Order 13514 – Federal Leadership in Environmental, Energy, and Economic Performance

Enacted October 8th 2009, the Federal Leadership in Environmental, Energy and Economic Performance order sets a national policy of creating a clean energy economy to promote energy security and the health of the environment. Each Federal agency must submit a plan to the Council on Environmental Quality (CEQ) that shows how the Agency will meet energy, water, and waste reduction targets. These targets are as follows:

- greenhouse gas emissions reduction by 2020;
- 30% reduction in vehicle fleet petroleum use by 2020;
- 26% improvement in water efficiency by 2020;
- 50% recycling and waste diversion by 2015;
- 95% of all applicable contracts will meet sustainability requirements;
- Implementation of the 2030 net-zero-energy building requirement;
- Implementation of the stormwater provisions of the Energy Independence and Security Act of 2007, section 438; and

- Development of guidance for sustainable Federal building locations in alignment with the Livability Principles put forward by the Department of Housing and Urban Development, the Department of Transportation, and the Environmental Protection Agency.

Executive Order 11988 – Floodplain Management

Executive Order 11988 requires Federal agencies to avoid Federal actions that adversely impact floodplains where there are practicable alternatives; and to minimize environmental harm. Each Federal agency must evaluate the potential effects of an action in a floodplain and ensure planning programs and budget requests consider flood hazards and floodplain management. To comply with EO 11988, each Agency must ask the following questions:

1. Will the Federal action occur in a floodplain? The determination will be made according to a HUD (vs FEMA? ? ?) floodplain map. If the answer is yes, consider alternatives to avoid adverse effects in the floodplains.
2. Is the only practicable alternative to site in a floodplain? If so, the agency will minimize potential harm and prepare and circulate a notice explaining why the action is proposed to be located in a floodplain.

EO 11988 contains other requirements of which an Agency should be aware. See the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973 for other requirements.

Executive Order 11990 - Protection of Wetlands

EO 11990 requires each Federal agency to take action to minimize the destruction, loss or degradation of wetlands and preserve and enhance the values of wetlands in carrying out Agency responsibilities. An agency must follow this EO when acquiring, managing, and disposing of Federal lands and facilities; financing, constructing, or assisting in construction and improvements; and conducting Federal activities and programs affecting land use. The EO does not apply to permits, licenses, or other activities involving wetlands on non-Federal property.

Each agency must allow the public to review plans or proposals for new construction in wetlands early in the planning process. See EO 11990 for other requirements if you are proposing an action in wetlands. CEQ guidance for the Implementation of Executive Order 11988 on Floodplain Management and Executive Order 11990 on Protection of Wetlands provides additional information. If an agency undertakes an action that may affect wetlands and floodplains, EO 11988 on Floodplain Management controls.

National Environmental Policy Act (NEPA)

NEPA requires Federal agencies to consider the potential impacts of projects, policies, programs, funding decisions and other agency actions on the environment. NEPA integrates environmental planning requirements into agency decision-making. See Section 2 for guidance on how to comply with NEPA for VA projects and other activities.

Be sure to coordinate NEPA compliance and compliance with Section 106 of NHPA, executive orders, and other legal requirements as applicable.

Further information can be found at:
NEPA Homepage http://ceq.hss.doe.gov/
NEPA Regulations http://ceq.hss.doe.gov/nepa/regs/ceq/toc_ceq.htm
NEPA Citizens Guide http://ceq.hss.doe.gov/nepa/Citizens_Guide_Dec07.pdf

National Historic Preservation Act (NHPA)

Congress enacted NHPA to preserve the cultural and historic resources of the United States. NHPA accomplishes this goal by establishing a National Register. This National Register list of historic properties is overseen by the National Park Service. The National Register does not necessarily protect such properties, although the listing does qualify these properties for certain grants, loans, and tax incentives.

Essential to NHPA is "Section 106 review," which requires Federal agencies to evaluate the impacts of Federally funded or permitted projects on historic properties. Agencies comply with Section 106 by following regulations issued by the Advisory Council on Historic Preservation (ACHP) (36 CFR 800) as well as their own internal guidelines.

When unsure about NHPA requirements, seek advice from the Historic Preservation Office, CFM.

Be sure to coordinate Section 106 compliance and compliance with NEPA and other legal requirements as applicable.

Part II: Other Environmental Planning Legal Requirements

The American Indian Religious Freedom Act (AIRFA)

AIRFA protects the rights of American Indians to believe, express, and exercise the traditional religions of the American Indian, Eskimo, Aleut, and Native Hawaiians. These rights include, but are not limited to access to sacred sites, freedom to worship, and the use and possession sacred objects. The Act requires Federal agencies to evaluate their policies and procedures and consult with American Indians to protect the religious cultural rights and practices and Native Americans. An agency must follow AIRFA if a proposed action may impact the rights of Native Americans. AIRFA requirements should be integrated into the NEPA process if applicable.

Clean Air Act (CAA)

Through the CAA, the Environmental Protection Agency (EPA) regulates air pollutants from mobile sources (automobiles, diesel trucks and busses, non-road vehicles, etc.) and stationary sources (power plants, factories, smoke stacks, etc.). EPA sets limits on air pollution through the National Ambient Air Quality Standards (NAAQS). EPA is mandated to establish NAAQS for each criteria pollutant. The criteria pollutants are particle pollution (often referred to as particulate matter), ground-level ozone, carbon monoxide, sulfur oxides, nitrogen oxides, and lead. The maximum ambient levels and the permissible emission levels of these pollutants are health and/or environmentally based (scientifically based). If an area does not meet NAAQS standards, the area is considered a non-attainment area.

The environmental impacts of a proposed action will vary depending on air quality. A Federal agency must consider the CAA during the NEPA process if its proposed action is in an area with poor air quality.

Safe Drinking Water Act (SDWA)

The Safe Drinking Water Act (SDWA) is the main federal law that ensures the quality of Americans' drinking water. Under SDWA, EPA sets standards for drinking water quality and oversees the states, localities, and water suppliers who implement those standards.

SDWA was originally passed by Congress in 1974 to protect public health by regulating the nation's public drinking water supply. The law was amended in 1986 and 1996 and requires many actions to protect drinking water and its sources: rivers, lakes, reservoirs, springs, and ground water wells.

Clean Water Act (CWA)

The CWA protect the surface waters of the United States through the National Pollutant Discharge Elimination System (NPDES). No point source (pipe, facility, etc.) can discharge into waters of the United States without an NPDES permit.

The EPA has authorized most States to administer the NPDES permits program. NPDES permits for point sources are "technology-based," which means that pipes, valves, etc. that facilitate the actual polluting into waters must meet EPA standards.

Section 319 of CWA regulates nonpoint source pollution (NPS). NPS includes any pollution not included in the definition of "point source" as defined in section 502(14) of CWA. NPS comes from diffuse sources such as runoff from rainfall that picks up natural or unnatural pollutants and carries them into the waters of the United States. Examples of NPS include fertilizer, oil, sediment, and bacteria. Stormwater management is critical to effective management of NPS. EPA likewise allows most States to manage NPS.

EPA (through the States) establishes water quality standards for particular bodies of water and a total daily maximum load (TMDL) for each pollutant. The CWA covers the regulation of individual pollutants and watershed-based plans. Water bodies are categorized by uses, such as fishable, swimmable, drinkable, etc.

EPA permits for discharge of dredge or fill materials into waters of the United States are known as Section 404 permits. EPA, in consultation with the Army Corps, may prohibit an area from being used as a disposal site if the discharge materials will have an unacceptable adverse effect on municipal water supplies, fisheries, wildlife, or recreational areas. Certain dredge and fill materials are not regulated under Section 404, including the maintenance or emergency reconstruction of serviceable structures, construction or maintenance of farm or stock ponds, and the maintenance of drainage ditches. See CWA Section 404(f) for a complete list.

If a federal action may discharge into or occur near the waters of the United States, a Federal agency may need to consider the CWA during the NEPA process.

Coastal Zone Management Act (CZMA)

CZMA is a Federal law that encourages states, tribes, and local authorities to implement coastal zone management plans (CMPs). CMPs contain policies to "preserve, protect, develop, and where possible, to restore or enhance, the resources of the Nation's coastal zone for this and succeeding generations" (Section 1452).

CZMA contains a Federal consistency provision under which Federal agencies actions with coastal effects must be consistent with federally approved State CMPs to the maximum extent practicable. Applicants for Federal authorizations and funding also must remain consistent with State CMPs.

Early consultation between Federal agencies and State CMPs avoids problems that would be expensive to fix and helps Federal agencies gain State and public support. The consultation and Federal consistency requirement between Federal agencies and State CMPs should be integrated into the NEPA evaluation process. Note that CZMA has a different effects test than NEPA for analyzing environmental impacts.

Endangered Species Act (ESA)

Administered by both the United States Fish and Wildlife Service (FWS) and National Marine Fisheries Service (NMFS), the ESA prohibits actions that endanger the critical habitat or species of fish, wildlife or plant that is in danger of extinction. The ESA also forbids the "taking" (i.e. killing, harming, harassing) of any such species. Threatened and endangered species are placed on the Endangered Species List, and certain rules and regulations restrict actions that will adversely affect such species and their habitats.

Under Section 7, Federal agencies must consult with the FWS when any action authorized, funded or carried out by the agency may affect a listed endangered or threatened species. This process is known as informal consultation. The Federal agency approaches FWS with a request for informal consultation. The Federal agency and FWS discuss the types of listed species that may exist in the proposed action area and the potential impacts of the agency's action on those species. If the agency's action may affect a listed species, the Federal agency must prepare a biological assessment. The biological assessment helps the agency determine whether the proposed action is likely to have an adverse effect on the listed species. See ESA for formal consultation requirements when a biological assessment or other review demonstrates the proposed action is likely to adversely affect a listed species.

Consider ESA during the NEPA process for any Federal action that may impact a threatened or endangered species.

Executive Order 13175 - Indian Tribes

President Clinton enacted EO 13175 to establish regular and meaningful consultation and collaboration with tribal officials in the development of Federal policies with tribal implications. The EO applies to policies or actions that have substantial direct effects on one or more tribes, the relationship between the Federal Government and tribes, or the distribution of power and responsibilities between the Federal Government and Indian tribes.

EO 13175 establishes a consultation provision by which no agency can promulgate a regulation with tribal implications that preempts tribal law unless the agency first consults with tribal officials, provides OMB with a tribal summary impact statement, and discloses written communications between the agency and tribe to OMB. The EO requires agencies to respect Indian tribal self-government, grant Indian tribal governments the maximum administrative discretion in administering Federal statutes and regulations, and encourage Indian tribes to develop their own policies. Agencies are to consult with Indian tribes before establishing Federal standards or any alternatives that might preserve Indian authority and limit the scope of Federal standards.

Farmland Protection Policy Act (FPPA)

FPPA attempts to limit federal actions that diminish, reduce or convert farmland from agricultural use to non-agricultural use. Federal programs must attempt to protect farmland. For the purpose of FPPA, farmland includes prime farmland, unique farmland, and land of statewide or local importance. Farmland subject to FPPA requirements does not have to be currently used for cropland. The land can be forestland, pastureland, cropland, or other land, but water and urban built-up land is not protected by FPPA.

Hazardous Wastes (3 Statutes): CERCLA (past actions) / RCRA (ongoing actions) and the Emergency Planning and Right to Know Act (disclosure)

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (past actions)

CERCLA, also known as the Superfund, is a Federal law designed to clean up abandoned hazardous waste sites. CERCLA focuses on past actions of hazardous waste disposal in which the adverse environmental situation already exists. The law authorizes the EPA to identify parties responsible (PRPs) for creating hazardous waste sites and force them to clean the site. The superfund is a trust fund devoted to cleaning up contaminated hazardous waste sites where responsible parties cannot be identified. Petroleum and chemical industries pay taxes that contribute to the superfund.

EPA has the authority to hold four different "potentially responsible parties" liable for the clean-up of a hazardous waste site: the current owner or operator, the owner or operator at the time of the disposal, the person who arranged for disposal, and the transporter of the hazardous substance. The transporter also must have selected the site for disposal to be held liable. In certain circumstances, current operators who have purchased a hazardous site after its contamination can be held liable, so investigation into the history of a parcel of land is important before purchase. Also, parties generating hazardous waste must know where hazardous wastes are going and who is shipping them, as such parties can be held liable for choosing a company or overall disposal process that does not arrange for the proper disposal of hazardous waste.

An environmental site assessment is the method of investigation used to determine whether a site or facility has any hazardous waste issues that would need to be addressed under CERCLA. A phase one environmental site assessment identifies a site's environmental conditions from past actions without considering the potential impacts from a planned or future action. The NEPA process should incorporate the results of a phase one environmental site assessment, but goes far beyond what is required for CERCLA by evaluating the action vs. simply the existing site conditions. Therefore, VA cannot use a phase one environmental site assessment to satisfy its NEPA responsibilities.

Resource Conservation and Recovery Act (RCRA) (ongoing operations)

RCRA gives the EPA authority to regulate hazardous wastes through a "cradle-to-grave" tracking process, which can focus on every aspect within the life-cycle of hazardous waste, including generation, transportation, treatment, storage, and disposal of hazardous waste. In this sense, RCRA is forward looking. RCRA attempts to reduce and eliminate hazardous wastes before environmental problems arise.

Subtitle C of RCRA grants EPA authority to regulate generators and transports of hazardous waste, along with facilities that treat, store or dispose of hazardous waste. Generators are responsible for determining if their wastes are hazardous. The collection of non-hazardous solid wastes remains a function of State, regional and local agencies. Any federal action involving hazardous waste should consider RCRA requirements for handling, storage, and disposal during the NEPA process.

Emergency Planning and Right to Know Act (EPCRA)

EPCRA is an act that provides state and local governments, along with the general public, information concerning potential chemical hazards in their regions and localities. The Act requires owners and operators of facilities to prepare material safety data sheets (MSDSs) and to submit them along with an emergency and hazardous chemical inventory form to the local emergency planning committee, the state emergency response

commission, and the local fire department. (42 § 11021 and 11022) Plus, certain facilities must complete a toxic chemical release form (TRI), which reports the quantities of releases of a number of different substances. (§ 11023) These forms must be submitted to the EPA and State authorities by July 1 of each year. Withholding information, even trade secrets, is not permitted. (§ 11042)

Marine Mammal Protection Act (MMPA)

Administered by both the U.S. Fish and Wildlife Service (FWS), and the National Oceanic and Atmospheric Administration (NOAA), MMPA protects all marine mammals, and prohibits, with certain exceptions, both the "take" of marine mammals in U.S. waters and by U.S. citizens on the high seas and the importation of marine mammals and marine mammal products. Exceptions can be granted for specific reasons such as scientific research, public display, and the importation/exportation, and these permits are granted by the FWS after a review process.

Migratory Bird Treaty Act (MBTA)

Originally established in 1918, the MBTA was an international treaty between the United States and Great Brittan to protect migratory birds, and is now a statute found at United States Code Title 16, Chapter 7, Subchapter II. At the time of MBTA enactment, it was difficult for the Federal government to mandate laws governing the taking of migratory birds within the individual States, and the power of the international treaty gave the government this constitutional right. Similar migratory bird treaties were subsequently signed between the Untied States and other countries, all of which have been incorporated into the MBTA.

The MBTA makes it illegal for people to "take" migratory birds or their parts – eggs, feathers or nests – although in extreme cases permits from the Federal government can be obtained. The criteria for obtaining such a permit can be found at Title 50, Code of Federal Regulations, 21.27, “Special Purpose Permits.”

Native American Graves Protection and Repatriation Act (NAGPRA)

Enacted in 1990, NAGPRA addresses the rights of lineal descendants, Indian tribes, and Native Hawaiian organizations to Native American human remains, funerary objects, sacred objects, and cultural items excavated or discovered on Federal or tribal lands. Federal agencies are required to return Native American cultural items and human remains to their respective peoples.

Noise Control Act (NCA)

Originally passed in 1972, NCA gave EPA the authority to regulate noise pollution and minimize the annoyance of noise affecting the general public. In 1981, the Administration decided that noise pollution is best regulated on a local level, and Federal funding for the NCA ceased thus stagnating the law. Many states and local municipalities regulate noise, though, especially for building projects for structures such as hospitals and office buildings. Noise impacts should be considered in VA’s NEPA analyses for both construction and long term operations aspects of the proposed action.

Oil Pollution Act (OPA)

Enacted in 1990, OPA provides the authority for the Federal government to prevent, mitigate and respond to oil spills off the coasts of the United States. OPA also created the Oil Spill Liability Trust Fund, which provides up to 1 billion dollars to be spent in the case of an oil spill. The act does not pre-empt State law and States may enforce extra liability, including unlimited liability (§1018(a)). The National Oil and Hazardous Substances Pollution Contingency Plan (NCP) requires Federal, State and local plans to be established for the event of a spill.

Spill Prevention, Control and Countermeasure Plans (SPCC)

The Clean Water Act of 1972 and the Oil Pollution Act of 1990 provide the authority for EPA to regulate oil spill prevention measures. The EPA enacted the SPCC rule in 1973 to implement CWA spill prevention requirements. Later, OPA expanded these spill prevention requirements. Unlike spill contingency plans, which respond to oil spills after-the-fact, SPCCs require certain facilities to establish containment and other prevention measures in an SPCC to ensure oil stored at the facility will not spill into or upon navigable waters of the United States or adjoining shorelines.

The EPA SPCC rule requires a formal plan which, just as the title states, demonstrates that good engineering and operating practices have been incorporated into the equipment and handling of potentially hazardous liquids. Originally this Act only regulated oils, but its scope has grown to include hazardous substances and hazardous waste that either are oil or are mixed with oil and have the potential to release into waters of the United States. Facilities and materials commonly covered include: under- and above-ground storage tanks, flame-safe cabinets, gasoline and oils, lubricants, transformer fluids, and solvents. The plan needs to be compiled by a PE, and updated at least every three years, or each time a significant change in equipment, materials, or practices occurs.

In order for a facility to be regulated by the EPA SPCC rule, the facility must be non-transportation related, must have an aggregate above-ground storage capacity of greater than 1,320 gallons or completely buried storage capacity greater than 42,000 gallons, and there must be a reasonable expectation of a discharge into or upon navigable waters of the United States or adjoining shorelines (40 CFR 112). See the SPCC rule for further explanation of who must prepare the SPCC and the type of facility and storage specifications necessary for the Rule to apply.

Pesticides: Four Statutes (FIFRA) (FEPCA) (FQPA) (FFDCA)

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA)

Administered by the EPA, FIFRA regulates the sale, distribution and use of pesticides in order to protect the person applying the pesticides, consumers and the environment. Under FIFRA all pesticides must be registered, and labeled for proper usage. All instructions must be followed, or the user can be found liable. Most pesticides are not available to the general public, and are restricted for only specific uses.

Federal Environmental Pesticide Act (FEPCA)

FEPCA amended FIFRA with new methods and standards of control. FEPCA established a program for controlling the sale, distribution, and application of pesticides through an administrative registration process. The Act also categorized pesticides into two categories, for general or restricted use. The amendments included provisions for experimental use permits and an administrative review process. FEPCA marks a shift towards minimizing toxicity and environmental degradation.

Food Quality Protection Act (FQPA)

The FQPA amended the FIFRA and the Federal Food Drug, and Cosmetic Act with stricter safety standards and a review of all existing pesticide tolerance levels. FQPA changed the way that the United States Environmental Protection Agency (EPA) evaluates and regulates pesticides. FQPA sets stronger standards for pesticides and creates uniform standards for FIFRA and FFDCA.

Federal Food, Drug and Cosmetic Act (FFDCA)

Through the FFDCA, EPA sets maximum residue levels, or tolerances, for pesticides used in or on foods or animal feed. The FDA and USDA monitor pesticide residue in food and tolerance levels.

Safe Drinking Water Act (SDWA)

Administered by the EPA, SDWA protects the supply of drinking water in the United States. SDWA applies to every public water source in the United States, including rivers, lakes, reservoirs, springs and groundwater wells. The act also sets standards for lead-free piping that delivers water. Along with providing safe drinking water from the tap, SDWA also targets source water protection, operator training, funding for water system improvements, and public information. This approach ensures the quality of drinking water by protecting it from source to tap. The EPA establishes health-based standards to protect against contaminants and oversees state and local suppliers.

SDWA established two programs for groundwater protection. The Source Water Assessment and Protection Program protects sources of drinking water. The Underground Injection Control Program (UIC) regulates the disposal of hazardous and nonhazardous fluids down wells. The UIC classifies wells according to the type of waste which can be disposed.

Toxic Substances Control Act (TSCA)

Administered by the EPA, TSCA regulates new and old chemical substances. It does not break substances down by "toxic" and "non-toxic," but rather prohibits manufacturing or importing chemical not listed on the TSCA inventory. (Section 8) Section 4 requires testing of chemicals by manufacturers, importers, and processors where risks of exposures or concern are found. Section 5 requires pre-manufacture notification of new chemical substances.

Wild and Scenic Rivers Act

In the Act, Congress declared that it is "the policy of the United States that certain selected rivers of the Nation which, with their immediate environments, possess outstandingly remarkable scenic, recreational, geologic, fish and wildlife, historic, cultural, or other similar values, shall be preserved in free-flowing condition, and that they and their immediate environments shall be protected for the benefit and enjoyment of present and future generations." (Section 1b) Rivers are classified as wild, scenic or recreational, and hunting and fishing are permitted under applicable Federal and State laws. As of 2008, the National System protects more than 11,000 miles of 166 rivers in 38 states and the Commonwealth of Puerto Rico, which is more than one-quarter of one percent of the nation's rivers.

Part III: NEPA Terms and Acronyms

Actions

NEPA applies to major Federal actions. A Federal action is any discretionary act or failure to act by a Federal agency. A Federal action can be a funding decision; program; activity; plan; project; or policy. NEPA reviews major Federal actions to determine if the proposed action has the potential to significantly impact the environment. CEQ defines major Federal actions as actions with effects that may be major and which are potentially subject to Federal control and responsibility (40 CFR 1508.18).

The NEPA regulations (at 40 CFR 1508.25) define three types of actions as:

> **Connected Actions**
>
> *Connected actions are closely related and therefore should be discussed in the same impact statement. Actions are connected if they:*
>
> *(i) Automatically trigger other actions which may require environmental impact statements,*
> *(ii) Cannot or will not proceed unless other actions are taken previously or simultaneously, or*
> *(iii) Are interdependent parts of a larger action and depend on the larger action for their justification.*
>
> **Cumulative Actions**
>
> *Cumulative actions are actions which, when viewed with other proposed actions, have cumulatively significant impacts and should therefore be discussed in the same impact statement.*
>
> **Similar Actions**
>
> *Similar actions are actions with similarities that provide a basis for evaluating their environmental consequences together, such as common timing or geography. An agency may wish to analyze these actions in the same impact statement to conserve agency resources.*

Categorical Exclusion (CATEX)

Under NEPA, VA can exclude specified categories of action from detailed environmental impact assessment, provided no "extraordinary circumstances" exist that require further review. Such actions are referred to as "categorical exclusions." VA categorical exclusions are listed at 38 CFR 26.6(b). A project that is categorically excluded under NEPA is **NOT** automatically excluded from review under Section 106 of the NHPA or other environmental laws; it still must be reviewed, in the same way as a project requiring an environmental assessment (EA) or environmental impact statement (EIS). Impacts on historic properties may or may not be "extraordinary circumstances" requiring preparation of an EA or EIS, depending on the significance of the property and the character of the impact.

Cumulative Effects

The CEQ regulations (at 40 CFR 1508.7) define a cumulative effect or impact as:

> *The impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency (Federal or*

non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time.

Environmental Assessment (EA)

Under NEPA, an environmental assessment (EA) is performed to determine whether a proposed action is likely to have significant impacts on the quality of the human environment. An EA must analyze the impacts of reasonable alternatives to the proposed action. If VA discovers that significant impacts are likely, then VA must prepare an environmental impact statement (EIS). If the EA shows that significant impacts will not occur, VA can issue a "finding of no significant impact" (FONSI) and proceed with its project or other action. An EA should be a brief but thorough analysis of the environmental impacts of the action and alternatives to it, and should be reviewed by appropriate experts and the public.

Environmental Impact Statement (EIS)

Under NEPA, an environmental impact statement (EIS) is prepared to document and analyze the environmental impacts of federal actions that are likely to have significant impacts. An EIS must also analyze the impacts of alternative ways of achieving the action's purposes. The results of the EIS are considered by VA in deciding whether and how to carry out the project or an alternative. The results of decision-making are documented in a record of decision (ROD).

Extraordinary Circumstances

Under NEPA, projects that are categorically excluded from detailed review must be briefly examined or screened to make sure that no "extraordinary circumstances" exist to require further review. Extraordinary circumstances are unusual situations that make a normally benign activity pose some kind of threat to the environment. For example, routine grounds keeping is ordinarily categorically excluded from NEPA review, but if a given grounds-keeping action (e.g., replacing turf in a cemetery) might threaten an endangered species (e.g., a worm that lives in the turf) or disturb an historic property (e.g., an archaeological site lying under the turf), then further review – usually an environmental assessment – may be necessary. So, it is necessary to consider each categorically excluded action to make sure that no such extraordinary circumstances exist.

Finding of No Significant Impact (FONSI)

Under NEPA, a FONSI documents that an environmental assessment (EA) has been performed and VA's conclusion that a proposed action will not have significant impacts on the quality of the human environment. The FONSI must identify any mitigation or monitoring that will be implemented as part of the project. Impact – For NEPA, an impact is any effect on the environment.

Almost all Federal actions will have some effect on the natural environment. NEPA requires analysis of both beneficial and adverse impacts.

Notice of Intent

VA publishes a notice of intent (NOI) before conducting an EIS. The NOI provides notice to the public of VA's proposed action, alternatives to the action, and details of the scoping process. The NOI also includes notification of opportunities for public involvement, such as scoping meetings, and provides an agency contact that will respond to questions.

Record of Decision (ROD)

Under NEPA, a ROD documents whether VA has decided to proceed with a proposed action or with an alternative. It also documents that the environmental impacts of the action have been considered through

preparation of an environmental impact statement (EIS), how these impacts have been considered, the environmentally preferable alternative, and the rationale for choosing the alternative that will be carried out. The ROD also identifies measures to be carried out to mitigate impacts, and discusses whether all feasible measures have been adopted (and if not, why not).

Significantly

The NEPA regulations (at 40 CFR 1508.27) define significantly in terms of context and intensity. Context refers to the surrounding circumstances, such as society, the affected region or locality, and affected interests. Intensity refers to the severity of the impact, considering beneficial and adverse effects; the affect on public health and safety; uncertainty of risk; cumulative impacts; threat to endangered species; unique circumstances in the area; and proximity to cultural and historic resources. To determine significance, both short-and long-term effects are relevant. See the NEPA regulations for a complete list of intensity factors.

Unresolved Conflicts

When preparing an EA or EIS, the agency must discuss any unresolved conflicts concerning alternative uses of available resources. Unresolved conflicts are the basis for analyzing alternatives in NEPA. When alternative uses of a resource unavoidably conflict, there is an unresolved conflict. VA must analyze alternatives in light of project needs, environmental impacts, and the value of alternative uses of resources.

Part III: VA NEPA / Environmental / GEMS contacts

VHA Contacts

Medical Center -

GEMS personnel
Facility Planner
Chief Engineer

VISN -

GEMS
CAMS

VHA "Corporate"

Jody McClarin - National GEMS Program Manager
Department of Veterans Affairs
Center for Engineering & Occupational Safety and Health (138F/JB) (CEOSH)
1 Jefferson Barracks
Bldg. 65, Room 118
St. Louis, MO 63125
314.894.6100 Ext. 66063
Email: Jody.McClarin@va.gov

John G. (Jack) Staudt, Jr., P.E. - VHA VACO Environmental Engineer
Department of Veterans Affairs (10N)
810 Vermont Ave, NW
Washington, DC 20420
Phone: 202-461-4602
E-mail: jack.staudt@va.gov

NCA Contact

Frank Duncan - Environmental Engineer
Department of Veterans Affairs (41F)
811 Vermont Ave, NW
Washington, DC 20420
Phone: 202-461-0567
E-mail: frank.duncan@va.gov

OAEM Contact

Catherine Johnson - Program Specialist
Department of Veterans Affairs (044C)
810 Vermont Ave, NW
Washington, DC 20420
Phone: 202-461-7775
E-mail: Catherine.johnson7@va.gov
of Veterans Affairs (044C)

CFM NEPA Contact

Thomas W. Moran, P.E. - Environmental Engineer
Office of Construction & Facilities Management (00CFM1)
Department of Veterans Affairs
811 Vermont Ave, NW
Washington, DC 20420
Phone: 202-461-8442
E-mail: thomas.moran2@va.gov

VA Federal Preservation Officer (FPO)

Ms. Kathleen Schamel - Federal Preservation Officer
Office of Construction & Facilities Management (00CFM1)
Department of Veterans Affairs
811 Vermont Avenue, NW
Washington, DC 20005
Phone: 202.461-8254
E-mail: kathleen.schamel2@va.gov

OGC Environmental Attorney

Michelle DeGrandi - General Attorney
810 Vermont Ave, NW
Washington, DC 20420
Phone: 913- 400-2106
E-mail: michelle.degrandi@va.gov

Council on Environmental Quality

See http://www.whitehouse.gov/administration/eop/ceq/

VA NEPA INTERIM GUIDANCE
PART FOUR: EXAMPLE DOCUMENTS

Department of Veterans Affairs

National Environmental Policy Act - Project Review

Project: Vermont Ave Crosswalk

Location: 810 - 811 Vermont Ave, Washington, DC

Date: 17 May 2010

Description of Action: Installation of a wheelchair access ramp and cross-walk appurtenances for pedestrian translation across mid-block Vermont Avenue.

Background: The Department of Veterans Affairs occupies the entire 810 Vermont Ave building and seven floors of 811 Vermont across the street. Whether for meetings, presentations, banking or sustenance (VA's Canteen and credit union are in the basement of the main building), a considerable amount of pedestrians cross Vermont throughout the day. Additionally, as a direct consequence of VA's mission, a significant number of these pedestrians are handicapped.

Action: VA is entering into an agreement to reimburse the District of Columbia to construct a wheelchair ramp sidewalk curb cut, and install various crosswalk roadway markings and accompanying signage both in the road and curb-side. Two potential versions of this proposed Action were presented for review: Alternate 1 (w/ street centerline median markings) and Alternate 2 (same w/o centerline markings).

NEPA Evaluation: In accordance VA NEPA Implementing Regulations (38CFRPart 26), this Action can be classified as a Categorical Exclusion (CATEX) based upon the information presented for review, specifically: (ii) Repair, replacement, and new installation of components such as windows, doors, roofs; and site elements such as sidewalks, patios, fences, retaining walls, curbs, water distribution lines, and sewer lines which involve work totally within VA property boundaries;

Reference: DC Department of Transportation, Infrastructure Project Management Administration, Proposed Mid Block Pedestrian Crossing, drawings dated 15 Dec 2009 (two sheets).

Other Potential Environmental / Permit Concerns: 1. National Capital Planning Commission should be consulted to ensure this project meets the Exceptions, Section 2a definition. 2. National Park Services should be consulted as the Lafayette Building (811 Vermont Ave) is a National Historic Landmark as well as appears to be adjacent to the Lafayette Square Historic District. 3. Ensure that the new curb cut ramp on the Lafayette Building side of Vermont Ave is placed far enough south of the existing mature oak tree so as to not impinge upon its root system.

Signatures:

VA CFM Environmental:

_____

Thomas W. Moran, P.E.
Environmental Engineer

Strategic Planning 00CFM1

VA Project Manager:

_____

Acting DAS for Administration (03)

Example More Complex CATEX Documentation (p1/3)

VA Caribbean Healthcare System

VA CARIBBEAN HEALTHCARE SYSTEM
ENVIRONMENTAL REGULATORY SECTION
EVALUATION FORM

PREPARED BY: LMD 29 MAY 2008 APPROVED BY: CCG

Project: Diesel Supply and New Gas Station	VACHS Location: San Juan Project Num.	Date: 12 June 2009

Type of Project:
- ☐ Operation and Maintenance Activities
- ☐ Repairs/ Renovation / Construction Project
- ☐ New Construction Project

Type of Environmental Document:
- ☐ New Permit Application: e.g. PREQB General Permit
- ☐ Categorical Exclusion
- ☐ Environmental Assessment/ Environmental Impact Statement

Environmental Analysis:
- ☐ Categorical Exclusion IAW with PREQB R-03-03-08.
- ☐ Categorical Inclusion IAW Title 38 CFR Part 26 Environmental Effects of VA actions.
- ☐ Proceed with Environmental Assessment as per PREQB PL 416 Article 4.B(3).

Environmental Assessment:
- ☐ In preparation ☐ Not Applicable
- ☐ Approved _____
- ☐ Finding of No Significant Impact (FONSI), published _____
- ☐ Environmental Impact Statement required.

PROJECT IMPACTS

Would the proposed activity involve or generate any of the following? If so, provide a brief explanation

SOURCE	YES	NO	SOURCE	YES	NO	SOURCE	YES	NO
Air Emissions	X		Liquid Effluent		X	RCRA or CERCLA Sites		X
Asbestos		X	Petroleum Storage	X		Wetlands		X
Excess Noise		X	Solid Waste	X		Permit Modification		
Utility Modification	X		Hazardous Waste		X	Chemical Use/Storage	X	
Soil Disturbance	X		Biological Resources		X	Aesthetics		X
Water Treatment	X		Radioactive Waste		X	Water/Well Use		X
Water Flow Modification		X	Mixed Waste		X	Other:		X

DETERMINATION
- ☐ I find the proposed project qualifies as a CATEGORICAL EXCLUSION under PREQB R-03-03.
- ☐ I find that the proposed project MAY have a significant effect on the environment; therefore, an ENVIRONMENTAL ASSESSMENT will be prepared.

Approved by: _____ **Date:** _____

ERS ONLY

GENERAL ENVIRONMENTAL REQUIREMENTS

The following list consolidates most of the Federal and State regulatory agencies environmental requirements for construction projects (NEW, Renovation, Closure) such as permit applications, evaluation letters and management plans. If you have any questions on the applicability of the permits, contact the Environmental Regulatory Section. * (Permit) ** (Evaluation Letter) and *** (Management Plan). Additional environmental requirements may be requested by the Regulatory Agencies.

Type of Environmental Requirements:

☐ **Puerto Rico Environmental Quality Board**

- __X__ CES Permit (Control of Erosion and Sedimentation)*
- __X__ DS-3 (Solid Waste)*
- __X__ PFE Permit (Emissions)*
- ____ Emergency Generators Construction Permit*
- ____ Emergency Generators Operating Permit*
- __X__ Asbestos Certification*
- __X__ Lead Based Paint Certification*
- __X__ Authorized Transporter/ Disposal Facility for Hazardous and Non Hazardous Waste (PREQB Permits Required)* Puerto Rico Environmental Quality Board General Permit
- __X__ Underground Storage Tanks Installation Permit/ Operating Permit*
- __X__ Underground Storage Tank Notification (Installation/Upgrade/Closure)*
- ____ Underground Injection Control Permit Application*
- ____ Used Oil Management/ Storage (CRAU) Permit Application*
- __X__ Environmental Assessment Evaluation (PL 416 Article 4B(3))**
- __X__ Categorical Exclusion Determination (R-03-30-08) (Evaluation/Letter)**
- ____ Notice of Intent General Water Quality Certification*

☐ **United States Environmental Protection Agency**

- ____ Notice of Intent (NOI) Storm water Management Permit*
- ____ Storm water Discharge Permit Application/ Construction Permit*
- ____ Notification of Asbestos or Lead Based Paint Demolition and Removal*
- ____ Title V Operating Permit*
- ____ National Pollutant Discharge Elimination (NPDES) Permit*
- ____ Wellhead Protection Program***
- ____ Spill Prevention and Countermeasures Control Management Plan (SPCCP)***
- ____ Notification of Hazardous Waste Activity*
- ____ NEPA Evaluation / FONSI/ EA/ EIS**

☐ **Puerto Rico Department of Natural and Environmental Resources (PRDNR)**

- ____ Well Installation / Monitoring and Abandonment Permit Application*
- ____ State and Local Concern Natural Resources Fauna and Flora (Evaluation/Letter)*
- ____ Soil Removal Permit Construction / DRNA**
- ____ Tree Cutting, Trimming and Removal Permit*

Example More Complex CATEX Documentation (p3/3)

ERS ONLY

GENERAL ENVIRONMENTAL REQUIREMENTS

The following list consolidates most of the Federal and State regulatory agencies environmental requirements for construction projects (NEW, Renovation, Closure) such as permit applications, evaluation letters and management plans. If you have any questions on the applicability of the permits, contact the Environmental Regulatory Section. * (Permit) ** (Evaluation Letter) and *** (Management Plan). Additional environmental requirements may be requested by the Regulatory Agencies.

Type of Environmental Requirements:

☐ **United States Fish and Wildlife Services**
____ Endangered and Threatened Species Biological Assessment**
____ Critical Habitat Environment Evaluation**

☐ **State Historical Institute and Preservation Office (SHIPO)**
____ Archeological Assessment Evaluation**
____ Cultural Resources Management Plan**

☐ **Puerto Rico Fire Department**
_X_ General Permit*

☐ **Utilities**
____ Puerto Rico Electrical Power Authority Permits* (PREPA)
____ Puerto Rico Aqueduct Sewer Authority (PRASA)
____ POTW Connection*
____ Waste Water Discharge*
____ Waste Water Treatment Plant*
____ Puerto Rico Telephone Company (PRTC)
____ Excavation Permit*

☐ **GREEN ENVIRONMENT MANAGEMENT SYSTEMS (GEMS)**
_X_ Prevention of Pollution
_X_ SPCC Management
_X_ Environmental Compliance
_X_ Affects VACHS Significant Aspects and Impacts
_X_ Project's Contractors and Subcontractors have knowledge of VACHS GEMS Program, Policy, Objectives and Targets.

ERS EVALUATION

CONCURRANCE: ____ **NONCONCURRANCE:** ____
REMARKS:

RETURN TO ERS COPIES OF ALL ENVIRONMENTAL APPLICATIONS AND RELATED DOCUMENTATION SUBMITTED TO ALL REGULATORY AGENCIES.
Copies received from _____ **/ FMS Section** _____ **Date:**_____

Appendix B: Sample Forms

Sample NEPA EA TOC - *Annotated*

TABLE OF CONTENTS

EXECUTIVE SUMMARY

1.0 INTRODUCTION
- 1.1 Project Background
- 1.2 Purpose and Need

2.0 ALTERNATIVES
- 2.1 Development of Alternatives
- 2.2 Alternatives Retained For Detailed Analysis

3.0 AFFECTED ENVIRONMENT AND ENVIRONMENTAL CONSEQUENCES OF THE ALTERNATIVES
- 3.1 Aesthetics
- 3.2 Air Quality
- 3.3 Cultural Resources
- 3.4 Geology and Soils
- 3.5 Hydrology and Water Quality
- 3.6 Wildlife and Habitat
- 3.7 Noise
- 3.8 Land Use
- 3.9 Floodplains, Wetlands, and Coastal Zone Management
- 3.10 Socioeconomics
- 3.11 Community Services
- 3.12 Solid and Hazardous Materials
- 3.13 Transportation and Parking
- 3.14 Utilities
- 3.15 Environmental Justice
- 3.16 Cumulative Impacts
- 3.17 Potential for Generating Substantial Controversy

4.0 PUBLIC INVOLVEMENT

5.0 MITIGATION

6.0 CONCLUSIONS

7.0 LIST OF PREPARERS

8.0 REFERENCES CITED

9.0 LIST OF ACRONYMS AND ABBREVIATIONS

Appendix A Native American Tribes Correspondence

Appendix B Agency Correspondence

Appendix C List Of Environmental Permits / Modifications Required

LIST OF FIGURES

Figure 1 – Project Location Map

Figure 2 – Preferred Alternatives

Figure 3 – Alternative Parking Garage Locations

Figure 4 – 100-Year Floodplains

Figure 5 – Existing Land Use

Figure 6 – Sanitary Sewer Network Areas

EXECUTIVE SUMMARY - *keep it short and to the point*

1.0 INTRODUCTION

1.1 Project Background - *General description of facility, history, setting, and proposed project.*

1.2 Purpose and Need - *just what the title says, reason for the proposed project.*

2.0 ALTERNATIVES

2.1 Development of Alternatives - *List the required criteria to accomplish the Proposed Action, ex. size, location, access, etc. How were Alternatives developed? Look to OMB 300 for "big picture" alternatives. Don't forget "null" alternative.*

2.2 Alternatives Retained For Detailed Analysis - *Which specific alternatives remain for detailed analyses after eliminating those which did not fit required criteria.*

3.0 AFFECTED ENVIRONMENT AND ENVIRONMENTAL CONSEQUENCES OF THE ALTERNATIVES

This section may be done in one of several different methods:

1. description of existing, followed by Preferred Action, then other Action(s) within each section

2. essentially go through this list of potential issues twice, once as currently exists, then a second time focusing on the consequences of the Alternatives.

This decision should be based upon ease of presentation.

The order of these items is suggested.

Do not forget that evaluation of each one of these potential issues is likewise broken into two phases: 1. during construction; and 2. during normal operations for the remaining life of the facility.

Reference specific environmental and other regulatory requirements to be followed during design and/or construction, and/or operation. Note status of permit application / modification efforts.

3.1 Aesthetics

Existing: *describe visual setting, historic, contemporary, industrial, open, city urban, etc.*
Proposed*: how would these proposed Actions fit into the setting?*

3.2 Land Use

Existing: *describe land use both on-site and immediate vicinity, general setting; land ownership*
Proposed*: how would these Actions fit into this general concept?*

Remember that VA is generally not subject to local zoning requirements, but use as reference. Presumably VA's presence and operations fall into the general preferred zoning anyway.

3.3 Air Quality

Existing: *non-attainment area? For what contaminants? What air emission permits are currently held, general conditions? Central boiler plant? Incinerator? Fuel storage tank vents?*

***Proposed**: how would these proposed Actions impact ext'g permit requirements? Necessitate modifications to permit(s)? Require new permit(s)? Dust control plan for construction activities?*

3.4 Cultural Resources

***Existing:** is facility on National Registry? Historic District? Eligible? existing Programmatic Agreements or MOAs already in effect?*
***Proposed**: have these proposed actions been reviewed by SHPO, in general?, in specific? Are modifications/renovations of historic structure proposed? Does new construction / renovation (of non-historic) have impact on nearby historic (physical or visual)? Subsurface work required? Archeology issues? Tribal concerns?*

3.5 Geology and Soils

***Existing:** describe geology as appropriate, describe surficial and near surficial soils as appropriate. Contamination prsent?*
***Proposed**: how may these Actions impact? Stockpiling anticipated? Borrow pits / significant fill areas? What soil & erosion controls? Pmt req'd?*

3.6 Hydrology and Water Quality

***Existing:** describe ext'g conditions. Shallow or contaminated groundwater? Existing pump & treat systems for prior releases? Nearby water bodies which could be impacted by Action (either during construction or operations. Ext'g stormwater runoff / retention regime. Stormwater discharge permit? SWPPP? BMPs?*
***Proposed**: Groundwater pumping required to accomplish sub-surface work? Where would water go? Modifications to SW pmts req'd? Proper SW controls, retention, infiltration imbedded in design? Groundswatering set up to minimize (or eliminate) need for potable water?*

3.7 Wildlife and Habitat

***Existing:** Describe ext'g flaura setting, resident or transient wildlife. Adjacency to sensitive areas of others?*
***Proposed**: How would these Actions impact these resources? Would habitat be degraded or improved? construction impacts vs. operational impacts.*

3.8 Noise

***Existing:** describe ext'g noise setting (urban, rural, airport flight path)*
***Proposed**: construction noise - hours of operation, days of week, types of equipment (w/r noise), special activities (ex. pile driving, water blasting)? Operational noise - vents, boiler blowdowns*

3.9 Floodplains, Wetlands, and Coastal Zone Management

***Existing:** Wetlands delineation done? USACOE buy-in? CZMA applicable?*
***Proposed**: impacts to wetlands? Stormwater ponds / wetlands?special provisions w/r floodplain area? dredge / fill operations? Permits? Construction vs. operations*

3.10 Socioeconomics

***Existing:** describe socioeconomic setting for site.*
***Proposed**: how might construction or operations impact socioeconomics? Often the reality in larger population centers is construction - somewhat, operations - not very much. That may be quite different if VA is the big game in a small town.*

3.11 Community Services

Existing: *describe fire, water, sewage, stormwater, police, schools mutual aid arrangements, VA police vs town cops, w w/r to setting as appropriate*
Proposed*: Proposed Action impose any additional requirements on these Community services? Again, often depends upon relative scale of VA w/r to community.*

3.12 Solid and Hazardous Materials

Existing: *asbestos Pb paint in buildings slated for demo? Surveys completed? Other haz mat in demo area? HW generator status of facility. Processes, and procedures in place for operational wastes as appropriate.*
Proposed*: Often significant differences in discussion of potential impacts of construction vs operation of completed proposed Action. Construction - abatement plans/activities, waste handling plan, segregation of demo materials, disposition of generated wastes, handling of hazardous construction materials (ex. fuel storage. Operations - changes in waste generation rates / types; change in: HW status, HW / medical waste storage/ treatment;*

3.13 Transportation and Parking

Existing: *ext'g setting for access/egress of site, adjacent public roadways, public transportation systems, traffic flow w/in station; traffic studies?*
Proposed*: how these Actions would impact above, improve or degrade? Need for changes in public roadways, transportation? Efforts to initiate these changes? Proposed action require new entrances / curb cuts? Interaction w/ local, state, federal DOT? Permits req'd?*

3.14 Utilities

Existing: *Describe ext'g service connections (gas, water, sewer, electric, coms) and suppliers as appropriate. Layout of such on-site as appropriate.*
Proposed*: how the proposed Actions would impact or require modification of above. Often, at the very least, modification of on-site utility services are required to services new / renovated facilities. Environmental impacts - trenching / dewatering operations? Significant change is service levels? New or modifications to permits (ex. wastewater, water) req'd?*

3.15 Environmental Justice

Existing: *relates to socioeconomic setting*
Proposed*: generally relates more commonly to land acquisition actions, however can be impacted by placement of "less desirable" elements of facility support w/in site (i.e. noise, visual)*

3.16 Cumulative Impacts

Existing: *driven commonly by general setting description*
Proposed*: How would this proposed Action(s)interact w/ other known proposed (or underway) actions elsewhere on-site or even off-site. Often relate to traffic, visual, etc impacts.*

3.17 Potential for Generating Substantial Controversy

Existing: *describe general setting*
Proposed*: General knowledge of local area. Input from public in general, newspapers, public meetings, focus groups, professional societies, local government, etc. Often, done well, VA projects are a welcome addition. Depends entirely on setting, Action itself, how presented, how it will be constructed, cumulative impacts, etc.*

4.0 PUBLIC INVOLVEMENT

Description of (list as appropriate) of public agencies contacted as part of this evaluation effort. Description of general public involvement (meetings, publications, newspaper articles, web-site presentation) to date, and proposed yet to occur.

5.0 MITIGATION
6.0 CONCLUSIONS
7.0 LIST OF PREPARERS
8.0 REFERENCES CITED
9.0 LIST OF ACRONYMS AND ABBREVIATIONS
Appendix A Native American Tribes Correspondence
Appendix B Agency Correspondence
Appendix C List Of Environmental Permits / Modifications Required

LIST OF FIGURES

Figure 1 – Project Location Map
Figure 2 – Preferred Alternatives
Figure 3 – Alternative Parking Garage Locations
Figure 4 – 100-Year Floodplains
Figure 5 – Existing Land Use
Figure 6 – Sanitary Sewer Network Areas

Sample Notice of Availability

NOTICE OF AVAILABILITY

DRAFT ENVIRONMENTAL ASSESSMENT

U. S. DEPARTMENT OF VETERANS AFFAIRS

Polytrauma / Blind Rehabilitation Center / Parking Garage
Palo Alto Health Care System
VA Medical Center, Palo Alto, CA

The Department of Veterans Affairs (VA) announces the preparation and availability of a "Draft Environmental Assessment" (DEA) for the proposed construction associated with the Polytrauma / Blind Rehabilitation Center and 600 Car Parking Garage, located at the VA Medical Center, Palo Alto, California. This project will demolish existing Buildings 48, 4, 23, 54, and C Wing of Bldg. 2; construct a new 165,000 GSF Polytrauma / Blind Rehabilitation Center, a new 600 Car Parking Garage, and install necessary supporting utility systems. The DEA has been prepared in accordance with the regulations for implementing the procedural provisions of the National Environmental Policy Act (NEPA), (Public Law 91-190, 42 USC 4321-4347 January 1, 1970), amendments, and VA's Implementing Regulations (38 CFR Part 26). VA intends to issue a "Finding of No Significant Impact" (FONSI) following a thirty day comment period in accordance with the Council on Environmental Quality Regulations for Implementing NEPA, Section 1508.13 providing there are no substantive comments which warrant further evaluation.

For further information and/or a copy of the DEA please contact the Director, Department of Veterans Affairs Medical Center at the following:

Director Elizabeth Joyce Freeman
VA Medical Center, Palo Alto, CA
3801 Miranda Ave.
Palo Alto, California 94304

Phone: (650) 493-5000

FINDING OF NO SIGNIFICANT IMPACT

(FONSI)

Department of Veterans Affairs

James A. Haley Veterans Hospital

Polytrauma Expansion & Bed Tower Upgrades

VA679-900

Tampa, Florida

January 2010

Office of Construction and Facilities Management, Eastern Regional Director — Date	Director, Veterans Administration Medical Center, Tampa — Date

BACKGROUND

The US Department of Veterans Affairs (VA) proposes several upgrades to the James A. Haley Veterans Hospital (JAHVH), located in Tampa, Florida. The JAHVH facility suffers from a substantial deficiency of space for its current functions. It is estimated that it currently has a shortfall of 770,550 gross square ft. In addition, the VA recognizes that it must provide specialized care for military service members and veterans who have sustained multiple and severe injuries.

To meet the project need as described above, the Polytrauma Expansion & Bed Tower Upgrade project was developed and includes four phases: Phase 1 includes a new 1500-space parking garage; Phase 2 includes an expansion of the Polytrauma facility; Phase 3 includes a new therapy pool building; and Phase 4 includes upgrades to the Bed Tower (Figure 1). An Environmental Assessment (EA) was prepared and advertised for purposes of soliciting public input. The EA is provided here as part of this combined EA/FONSI.

SUMMARY OF THE PROPOSED ACTION

The locations of the preferred alternative for each phase are shown on Figure 1. The following describes key elements and benefits of these preferred alternatives.

Phase 1 Parking Garage

This phase of the project includes a structured parking garage that would provide up to 1500 parking spaces for patients, family, visitors, and staff. The garage would be built on a parcel 3.0 acres in size, the majority of which is an existing stormwater pond, on the southwest corner of the JAHVH campus.

Phase 2 Polytrauma Addition

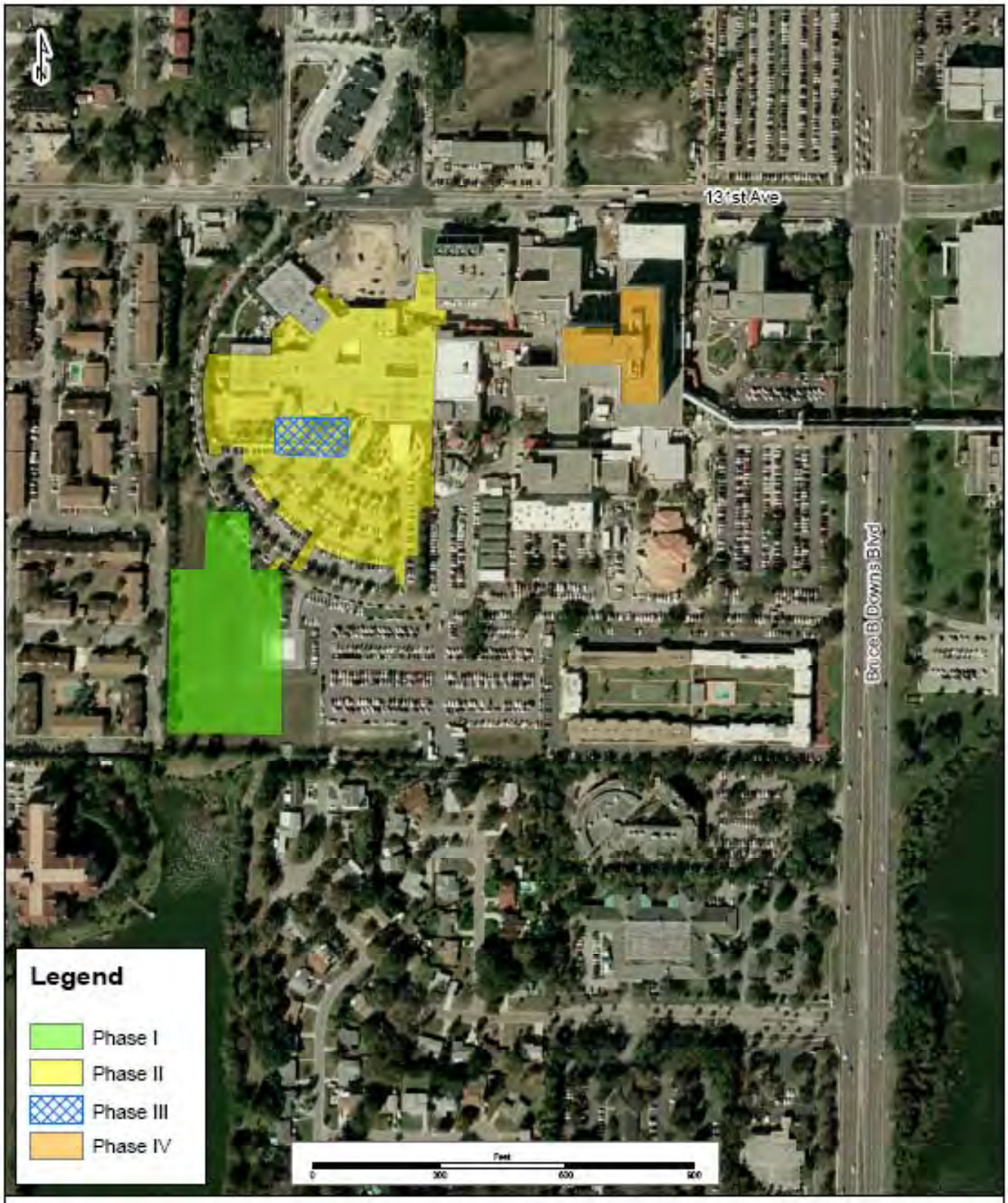
The Polytrauma Addition would be a new 56-bed, 156,000 square feet (sqf) hospital addition with two proposed floors built onto an existing one-story 102-bed Spinal Cord Injury (SCI) Center that was designed in the late 1990s and built earlier this decade. The existing building would be occupied and fully operational during construction on a 24/7 basis.

The Polytrauma Addition would be primarily for returning war veterans with serious physical and mental injuries, many of which may have been suffered during bomb blasts, and for VA patients who are undergoing physical rehabilitation treatment.

The exterior walls and structure of the existing one-story building are not planned to receive any upgrades. The exterior enclosure walls of the new addition would be designed for hurricane impact protection to a 120-mph base wind speed. These walls would have primarily 9-inch (in.) thick precast panels around the patient room core areas and metal panel systems around the architectural feature areas. Building areas proposed to have glass include the larger scaled window-walls of the public areas, and the smaller windows of patient, office, and exam rooms.

Phase 3 Therapy Pool Building

The Therapy Pool building is an attached one-story structure that would be adjacent to both the SCI Center and the Polytrauma Addition. It would provide expanded and enhanced therapy to veterans.



HDR

Preferred Alternative Locations

Figure 1

Sample Scope of Work

SCOPE OF WORK

NEPA Environmental Assessment

Project:

Location:

Contract #:
Delivery Order #:

Date:

VA Project Manager Notes (delete from SOW when accomplished):

1. Sections in bold italics need to be tailored to the specific project.
2. Suggested project specific items are provided.
3. Project timeline is suggested, but generally realistic. Revise as appropriate.
4. Revise the mix of hardcopy / electronic files as appropriate. Suggested mix is appropriate for most common projects.
5. The presumption is made that (for CFM Projects) CFM Environmental Manager and VA's Historic Preservation Officer have already had the chance to discuss salient points of project and presumptive NEPA / environmental concerns prior to contracting for a NEPA EA.
6. Based on #4 above, it is presumed that required individual, specific environmental or historical studies (ex. wetlands delineation, historic preservation compliance) are either completed or are underway concurrently.
7. This Draft document for use provides technical SOW material only. Add appropriate contracting language or incorporate this revised SOW into a "mother" RFP.

I. GENERAL SOW DESCRIPTION

The purpose of this project is to prepare an NEPA Environmental Assessment of the proposed action to ensure the US Department of Veterans Affairs (VA) compliance with the regulations set forth by the Council on Environmental Quality provisions of the National Environmental Policy Act (NEPA), Title 40 CFR Parts 1500-1508; and VA Implementing Regulations, Environmental Effects of VA Actions, Title 38 CFR, Part 26 (51 FR 37182, Oct. 20, 1986). Particular attention should be directed to the environmental assessment definition..."a concise public document that serves to: briefly provide sufficient evidence and analysis for determining whether to prepare an environmental impact statement or a finding of no significant impact" (NEPA Part 1508.9).

If, during fee proposal preparation, the contractor feels that there is a high probability that identified investigations will yield inadequate data or will fail to meet known regulatory requirements to support the proposed project schedule, a request for scope clarification should be initiated. If the scope

clarification discussion does not eliminate these concerns, unresolved issues should be identified both in the fee proposal submission and to the contracting officer.

II. PROJECT DESCRIPTION FOR ENVIRONMENTAL ASSESSMENT DEVELOPMENT

A. GENERAL BACKGROUND

Insert short (several sentences) description of site / facility / history.

Example: The Ft. Ruckus VA facility consists of a 120 bed, 800,000 sq ft hospital with attendant supporting structures / services providing a full range of acute medical, surgical, cardiac, maternity, neurological, rehabilitative and psychiatric inpatient care, as well as a 48 bed Community Living Center (CLC) with the primary focus on restorative services. The Center employs approximately 650 personnel. . It is located on a 22 acre campus in West Podunk, SD. The site is approximately 45% developed. The area surrounding the campus residential to the N and E, State Hwy 36 to the W, and downtown West Podunk to the S.

B. PROPOSED ACTION

Insert short (several sentences) description of the Proposed Action.

Example: The VA is intending to construct a 90,000 sq ft building for a Mental Health Recovery Center (MHRC) and a 300 car, 3 level parking garage.

C. ALTERNATIVES

The contractor shall pay particular attention to how alternatives are presented in the EA. The contractor shall refer to the existing Concept Paper for this proposed project when considering/evaluating alternatives for the EA. (A copy of this document will be included with the request for proposal.) Alternatives not consistent with the proposed action will be identified in the EA and sufficient discussion will be provided as to why these alternatives do not meet the established criteria and are not viable.

D. ALREADY IDENTIFIED POTENTIAL CONCERNS

Based upon the VA's current and prior experience with this site, it is anticipated that the following areas present the potential for concern w/r to environmental, historical, or public interest:

Insert a bullet list / short description of potential concerns specific to this project / site.

Examples:
- VA has knowledge that, as a US Army facility, this is where the US Colored Troops trained after the Civil War; during the CW, it was a Union induction center.
- wetlands abound across the southern portion of the site

- several of the supporting facility structures are 50+ years old

III. SERVICES REQUIRED

A. GENERAL

This contract is for the preparation of an Environmental Assessment (EA) document in accordance with Section 102(2) (c) of the National Environmental Policy Act of 1969, the Council on Environmental Quality (CEQ) "Regulation for Implementing the Procedural Provisions of the National Environmental Act" 40 CFR Part 1500 and VA Regulations, Environmental Effects of VA Actions, Title 38 CFR, Part 26 (51 FR 37182, Oct. 20, 1986).

Contractor submitted products shall be reviewed for government requirements and criteria compliance. The Contractor at no additional cost to the government shall correct errors and/or deficiencies resulting from the Contractor's performance.

If, during the course of compiling the NEPA EA, it becomes apparent that specialty investigation, sampling, or other study efforts are required to provide adequate input into the evaluation or design process, the contractor shall bring these to the attention of the Project Manager as early as possible. Execution of any of these additional efforts may be accomplished through revisions to this contract, or by other means by others.

If, during the course of compiling this NEPA EA, it becomes apparent that issuing a FONSI is not the appropriate conclusion to these efforts, continuation into an Environmental Impact Statement (EIS) will be required. Execution of any of these additional EIS efforts may be accomplished through revisions to this contract, or by other means.

Task 1 - PREPARE ENVIRONMENTAL ASSESSMENT: The contractor will be required to prepare an EA for the proposed project. The contractor will be required to identify/discuss alternatives other than the No-Action and Preferred Alternative. As part of the EA development, the contractor shall provide mitigation and best management practices recommendations for each alternative. The EA shall be a concise analytical document. Relevant and significant issues shall serve as the basis for alternative comparison and evaluation. To sharpen the issues and provide a basis for choice, the presentation of data in matrix format is desired. Data matrixes should compliment text discussions. At a minimum, a matrix of each alternative’s environmental impacts should be presented in the EA executive summary and alternatives section. Issues of little or no relevance should be concisely stated as such; issues that are of importance will require discussion up to the level necessary to provide a baseline for impact analysis in the environmental consequences section and cumulative impacts section. It is assumed that the review, draft, and final submittals will be professionally edited and that all information presented in layman's language with limited technical terminology. Statistical or scientific terminology should not be used without providing explanatory information. A glossary of terms or explanations must be provided.

Task 2 - ENVIRONMENTAL PERMITTING IDENTIFICATION: The contractor is to identify all required environmental permits or other agreements which would need to be obtained in order to complete the proposed action at the federal, state, and local level. Example environmental permit mediums to be considered include, but are not limited to: air emission, wastewater, stormwater, UST, AST, CZMA,

asbestos and/or LBP removal, hazardous waste, C&D waste, historic structures, archeology. While the contractor is not being requested to obtain such identified permits under this SOW, they must be listed in an appendix w/in the EA. This listing, in tabular form, shall also identify key requirements and status of each permit, for both construction and operation (if different). This listing shall also identify existing facility environmental permits which will require modification to incorporate the proposed action.

Task 3 – PUBLIC INFORMATION / PARTICIPATION

NEPA requires public information and solicitation of input into the process. The contractor shall provide VA with the following:

Task 3a - The contractor shall prepare a Notice of Availability of the Draft Environmental Assessment. The contractor will prepare a draft and final version of this notice. Once approved, the contractor will publish this notice in the appropriate local newspaper(s) indicated below. The contractor shall arrange for the notice to run for three consecutive days one of which shall be a Sunday. The specific newspapers shall be approved by the Project Manager.

Insert Specific Newspapers Here

Task 3b - The contractor will be required to provide support for the potential Public Information Meeting. The contractor will prepare a public information bulletin (a single, maximum two-sided 81/2 x 11 sheet) for the VA to distribute to interested parties, either as requested individually or at a public meeting. The contractor will prepare a draft and final version of this bulletin.

Task 3c - In the event of sufficient public interest, this contract will be modified to require the contractor to provide public information meeting support.

Task 4 – FINDING OF NO SIGNIFICANT IMPACT (FONSI): The contractor shall prepare and submit a draft FONSI for the proposed action to the VA according to the project schedule. The FONSI shall briefly summarize the VA's action, considerations of the alternatives, decision for implementing the proposed action including any mitigation that will be required. Presuming minor or no comments to Draft EA, this FONSI shall be incorporated into the Final EA along with the comments and responses (as an additional Appendix).

B. FIELD WORK AND COORDINATION

1. In accordance with the above provisions, the contractor shall conduct general site investigations and assessments for each viable alternative and issue of concern. The VA will provide all available appropriate data for the preparation of the EA. Although the VA believes there is a great deal of existing information available from the VA, other public resources, or Internet, it is strongly recommended that the contractor evaluate available existing information prior to fee submittal. Any proposed study plans in support of the NEPA EA should be coordinated with, and understood, by the Project Manager, Facility POC, CFM Environmental, and Contracting Officer prior to contract negotiation. The contractor shall advise the Project Manager of any additional required regulatory agency coordination or correspondence and shall summarize this information within the EA. The contractor should anticipate a minimum of three (3) site visits over the duration of the project.

2. It will likely be necessary to contact additional VA personnel and contractors, along with the appropriate federal, state and local agencies or organizations to collect relevant data. These contacts shall be coordinated with the Project Manager. Contacts shall occur early in the EA's development to identify local or regional management plans and concerns, applicable regulations or permitting requirements, and existing data bases/studies. Within the EA, a listing of agencies and/or persons contacted shall be included.

C. GOVERNMENT FURNISHED INFORMATION

For purposes of EA preparation, the following information/documents will be made available. Hardcopy documents shall be returned to the Government upon project completion unless they were identified as copies not to be returned.

INSERT LISTING OF KNOWN AVAILABLE DATA, ENVIRONMENTAL AND PROJECT

Examples include:

Concept Paper
Schematic Designs
Phase I Archeology Survey Report
Proposed project site plan
Historic Site plan(s)
Facility EMS, existing permits

D. DELIVERABLE FORMATS

All documents, maps and illustrations must be of high quality and easily reproducible on standard or color copiers. . Hardcopy draft documents will be single-sided and the final documents will be two sided, single spaced, on 8 1/2" by 11" paper in manuscript format, with standard outline spacing. Maps identifying the location of the project will be included within the document and may be used along with tables, figures and illustrations throughout the document to more efficiently display project related information. Fold out pages should be avoided. If these are necessary, they will be no larger than 11" by 17" and have the same design as the 8 1/2" by 11" graph pages and will be approved by the government before document preparation. All pages of the documents will be appropriately numbered and inserted into a 3 ring binder.

All deliverable documents and maps, charts, etc. will also be delivered in electronic format, Microsoft Office Word and in jpeg formats. Files must be delivered in electronic formats that can be revised or updated by the government. Documents destined for wider distribution shall also be delivered in Adobe Acrobat format.

E. EA TEXT PREPARATION

The general format for the EA document shall be as follows:

- Executive Summary
- TOC

- Introduction which includes: description of existing facility / site and the Purpose and Need for the Action
- Proposed Action and Alternatives
- Affected Environment and Environmental Consequences of the Alternatives
- Mitigative Measures
- Conclusions
- List of Preparers
- Public comment and responses
- Agencies consulted, data resources
- Listing / description of required permits to complete action

The EA must address the following potentially affected environmental topics:

- Aesthetics
- Air Quality
- Cultural Resources
- Geology and Soils
- Hydrology and Water Quality
- Wildlife and Habitat
- Noise
- Land Use
- Floodplains, Wetlands, and Coastal Zone Management
- Socioeconomics
- Community Services
- Solid and Hazardous Materials
- Transportation and Parking
- Utilities
- Environmental Justice
- Cumulative Impacts
- Potential for Generating Substantial Controversy
- Cumulative Impacts

The text shall be professionally edited for grammar, spelling and punctuation. It will be important to all interested parties that the document presents plain and straightforward discussions understandable in layman's terms.

IV. KEY MEETINGS AND SUBMISSIONS

A. KICK-OFF MEETING: The contractor shall attend a Kick-Off meeting to be held at XXXXXXXX within 15 days following contract award, or as directed by Project Manager. The intent of the meeting shall be to introduce key VA and contract personnel, initiate a project distribution list and clarify any other project related items or concerns. The contractor will be required to provide a written EA TOC and outline at this meeting that will serve as the template for the document production.

B. SUBMITTAL - INTERNAL REVIEW ENVIRONMENTAL ASSESSMENT: The contractor shall prepare an internal review EA that is clear, concise, and to the point. The contractor is encouraged to forward

selected sections of the EA as it progresses for review and comment if there is potential cause for concern or confusion with respect to method of presentation, data accuracy, or controversy.

The Government review of the internal review environmental assessment submittal will focus on ensuring that the document meets VA requirements. The contractor may be required to: modify and/or consider new alternatives within the parameters of the proposed action; conduct minor investigations to adequately address issues and/or alternatives overlooked; supplement, improve or modify previous analyses to consider impact of changes; or make factual corrections. Once the VA has reviewed and commented on this submission, the contractor shall revise the EA to reflect these comments.

C. SUBMITTAL - DRAFT ENVIRONMENTAL ASSESSMENT: Based on the comments on the Internal Review EA, the contractor shall prepare the Draft EA for VA final review. The purpose of this Draft EA is to facilitate external review. Presuming no final comments by VA, it is ready for public release for review and comment.

D. SUBMITTAL – DRAFT FONSI: The contractor shall prepare a draft FONSI for review by VA.

E. SUBMITTAL - DRAFT NOTICE OF AVAILABILITY: The contractor shall prepare a draft Notice of Availability of the draft EA to publish in the local newspapers specified.

F. SUBMITTAL – NOTICE OF AVAILABILITY: The contractor shall revise the NOA and arrange for publication of the Notice of Availability of the draft EA in the newspapers indicated below. The NOA shall be advertised for 3 consecutive days. The contractor shall provide (an original) proof of publication from the specified newspapers. A copy of the newspaper is not considered proof of publication.

- ***Insert appropriate local newspaper(s) here***

G. SUBMITTAL - FINAL EA: The contractor shall prepare written responses to any public comments received and forward to VA for review and approval. Presuming these comments / responses are minor in nature, they shall be incorporated into the Draft EA, along with the VA approved FONSI and published as the Final EA.

H. PROGRESS REPORTS REQUIRED: The contractor will submit to XXX progress reports every two weeks. Progress reports can be submitted via e-mail. The format of the report is left to the discretion of the contractor. However, each report shall include the following:

Meeting minutes
Phone Contact Summaries
Schedule milestones to include an anticipated slippage
Percent complete on various tasks
Problems to be resolved
Additional VA input requested/desired and responsible individual by name
Other points of interest.

VI. EA DOCUMENT DISTRIBUTION

DOCUMENT	NUMBER	PUBLICATION	DISTRIBUTION (as necessary)
Internal Review EA	2 paper Electronic file	No	A, B A, B, C
Draft EA (for public comment)	2 paper Electronic File	No	A, B A, B,C
Final EA	4 paper 5* cd's	No	A(2), B(2) A (2), B(2), C(1)
Correspondence			

* Electronic copy files on CD / DVD media shall be in Adobe Acrobat file formats that can not be altered
Distribution notes:

A = Project Manager
B = Facility POC
C = CFM Environmental
D = Local Newspaper